THE ROMAN CURIA AS IT NOW EXISTS

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AN ACCOUNT OF ITS DEPARTMENTS: SACRED CONGREGATIONS, TRIBUNALS, OFFICES; COMPETENCE OF EACH; MODE OF PROCEDURE; HOW TO HOLD COMMUNICATION WITH: THE LATEST LEGISLATION

BY

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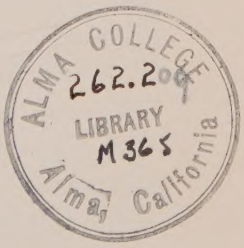

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FOREWORD

THE volume here presented to the public is intended to convey some knowledge of the Roman Curia as it exists to-day. This Curia was reorganized by His Holiness Pius X in accordance with the Apostolic Constitution *Sapienti consilio,* of the 29th of June, 1908. A few months afterwards a series of articles was begun in the pages of the " Ecclesiastical Review " by way of commentary, in which the writer endeavored to indicate the new legislation of the Sovereign Pontiff. This series of articles treated of the Sacred Congregations, Tribunals, and Offices of the Curia, setting forth the province assigned to each Department and the method of procedure in the management of ecclesiastical business. The articles appeared in occasional numbers of the " Review" from December, 1908, until October, 1910.

From various quarters it was suggested that for the convenience of readers those articles ought to be republished in a separate volume. In considering this suggestion a certain difficulty occurred. After the appearance of the articles a considerable number of Decrees were issued by

the Holy See, elucidating particular questions not previously settled by the legislation of 1908. If the articles were to be republished without any mention of these Decrees, the result would be disappointing for some, and misleading for others. Those who were already acquainted with the new Decrees would reasonably expect some reference to be made to them in a work subsequently published on the same subject: and others who were not aware of those Decrees would suppose that in reading the republished articles they were getting the most recent information available on the matter. The articles were carefully reread after a study of the most recent commentators upon the new legislation, such as Ojetti, Capello, and Monin; still it was not deemed expedient to alter any opinion or statement made in the articles themselves.

To solve in some manner the difficulty just referred to, it was decided to reproduce the articles substantially as they appeared in the Review, and also to subjoin Addenda containing the latest Decrees and a brief exposition of their purport. Besides, in the Addenda will be found some practical hints upon the method of communicating with the various Departments of the Roman Curia, and likewise some formulas of petitions.

It is hoped that by means of the Commentary now republished, and of the Addenda appearing for the first time, the English-reading public may find a convenient and reliable handbook upon the present condition of the Roman Curia.

For the benefit of those who understand Latin, an Appendix is given, containing the text of the Papal documents, viz., the Constitution, *Sapienti consilio,* the *Lex propria, Normae communes,* and *Normae peculiares.* These documents, formulating as they do the legislation of the Sovereign Pontiff regarding the Roman Curia, are frequently cited in the following pages so that for many readers it will be convenient to have them incorporated in the same volume.

In conclusion the author desires to state that whatever he has written in this work is willingly submitted for correction to the proper ecclesiastical authority. He also wishes that its perusal by members of the clergy and laity may conduce to a better acquaintance with and an increased reverence for the Roman Curia.

THE AUTHOR.

FEAST OF THE IMMACULATE CONCEPTION, 8th December, 1912.
ST. LOUIS UNIVERSITY.

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INTRODUCTION

On the 29th of June, 1908, a Constitution was issued by the Holy See upon the reorganization of the Roman Curia and began to take effect on November 3 of the same year. Like other great Roman documents, it has come to be generally known by the words with which it begins—*Sapienti consilio.* From an examination of this document it is evident that it deals with three departments of that Curia, viz., the Roman Congregations, Tribunals, and Offices. In treating of the Congregations the Sovereign Pontiff sets forth the kind of ecclesiastical business assigned to each of them, he institutes a new Congregation, *De Disciplina Sacramentorum,* and unites various other Congregations heretofore distinct. Then three Tribunals are enumerated, the Sacred Penitentiaria, the Sacred Roman Rota, and the Apostolic Segnatura. Under the third department five Offices are set down—the Apostolic Cancellaria, Apostolic Dataria, Apostolic Camera, Secretariate of State, and the Secretariates of Briefs to Princes and of Latin Letters. By way of appendix to the Constitution there is added a number of special

laws and rules which have reference to the mode of transacting business in those departments of the Curia.

TO BE KNOWN BY THE CLERGY

That an acquaintance with the new legislation contained in the Constitution, *Sapienti consilio* will be expected from priests generally, and will be indispensable for many of them, can be readily understood. This applies with special force to diocesan officials, especially chancellors, who under the new régime will need to have recourse to one or other of the Roman Congregations or Tribunals in order to solve their doubts and to procure dispensations. Heretofore in the United States when difficulties were to be solved or dispensations to be obtained from the Holy See, the matter was presented to the Congregation of Propaganda, since this Congregation possessed authority to manage all ecclesiastical affairs for those subject to its jurisdiction. Hence for this country, as indeed for every country under the Propaganda, this Congregation took the place of all the other Roman Congregations. Now one of the Decrees of the Constitution *Sapienti consilio,* ordains that the United States be exempt from the jurisdiction of

the Propaganda and be placed under the common law of the Church. Accordingly when doubts are proposed to the Holy See or dispensations are to be sought from Rome, it should be ascertained which of the Congregations or Tribunals is competent to deal with the question. The new status introduced into the United States renders it imperative for those who have to consult the Holy See to know the province of each of the Roman Congregations and Tribunals; nor will it be safe for one to rely on his former knowledge of the departments of the Roman Curia, because, as will be seen later, very substantial changes have been effected by the new legislation. While a careful study of the document itself, *Sapienti consilio,* is to be recommended to every priest, it will be found useful for many to have its chief provisions given in English along with a brief commentary upon the more important and more difficult points contained therein: it is this which is now proposed to be done in the following pages. When any portion of the Constitution is quoted, the English translation published in the weekly magazine, "Rome," is followed.

THE PREAMBLE OF THE CONSTITUTION

In the beginning of the Constitution the Sovereign Pontiff explains the occasion of its publication. In order to assist the Pope in transacting the business of the universal Church, Congregations of Cardinals were instituted in the sixteenth century. By Apostolic Letters issued 22nd January, 1587, Sixtus V deemed it advisable to establish fifteen such Congregations with a view to maintain ecclesiastical discipline and to administer justice for different parts of the Christian world. This ordination of Sixtus was to undergo several changes under subsequent Pontiffs. According to the exigencies of circumstances the number of those Congregations became at one period increased, at another diminished. It happened, too, that by positive enactment of the Roman Pontiff and also through custom, gradually introduced, several Congregations were competent to deliberate upon and give decisions in the same kind of matter. Besides, it occurred that, while some Congregations had comparatively little business to transact, others were overcrowded so as to be unable to accomplish within proper time the duties assigned to them. Representations by various persons, especially cardinals and bishops, were

made orally and by letter to the Sovereign Pontiff—to the present Pope as well as to his immediate predecessor, Leo XIII, with the purpose of obtaining a remedy of the inconveniences arising out of the existing conditions.

The present Sovereign Pontiff, even in the first year of his reign, endeavored to supply a partial remedy. On the 17th December, 1903, he published an Apostolic Letter declaring that henceforth the business of electing bishops for all countries, except those subject to the Propaganda, or to the Congregation for Extraordinary Ecclesiastical Affairs, or where the election of bishops was regulated by Constitutions or Concordats, should be transacted by the Congregation of the Holy Office, not only for Italy but for other countries likewise. Leo XIII had instituted a special Congregation, whose duty it was to attend to the appointment of bishops in Italy; but this Congregation is no longer distinct from the Congregation of the Holy Office, having been united to the latter by the present Sovereign Pontiff. Shortly afterwards (28 January, 1904) another Apostolic Letter was issued, by which the Congregation of Rites was permanently united with the Congregation of Indulgences and Relics More recently still (26 May, 1906), two Roman Con-

gregations, one entitled *Super Disciplina Regularium,* and the other, *De Statu Regularium Ordinum,* were abolished and their faculties were transferred to the Congregation of Bishops and Regulars, since owing to altered conditions there appeared no sufficient reason for keeping those two Congregations distinct from that of the Congregation of Bishops and Regulars.

At the present juncture the Holy Father has deemed it prudent to make further alterations in the Roman Curia. The Commission appointed for the Codification of Ecclesiastical Law is now engaged in its great work, and it is considered opportune to make further amendments in the Curia so that it may discharge its functions to the Roman Pontiff and the Church with more facility and with greater perfection. Under these circumstances the Sovereign Pontiff in the closing paragraph of the preamble to his Constitution declares as follows: "Wherefore, after having taken counsel with several of the Roman Cardinals, we have determined and we do decree that the Congregations, Tribunals, and Offices which compose the Roman Curia and to which the affairs of the universal Church are referred for treatment shall, after the autumn holidays of the current year, that is, after the third day of November, 1908, be only those, besides the

usual Sacred Consistories, which are defined in the present Constitution, and which shall remain divided and constituted in number, order, and competence by the laws which here follow."

From these words it may be noted that what has been usually termed the Sacred Consistory continues under the new legislation. Every one is aware that the Sacred Consistory is a meeting of the College of Cardinals held in the presence of the Sovereign Pontiff for the transaction of important ecclesiastical business. During several centuries, viz., from the tenth to the sixteenth, it was by aid of the Consistories that the Roman Pontiff discharged the ecclesiastical affairs of the whole Catholic world: just as in the centuries previous to the tenth the affairs of the Church were regulated by the Pope in conjunction with the clergy of Rome. Meetings of the Consistory were accustomed to be held three times a week under the presidency of the Pope himself: discussions on questions of faith, morals, and ecclesiastical discipline were carried on; disputed cases which had been presented to the Holy See for settlement were examined and decided. However, the amount of business was continually increasing, so that the Consistory was unable to transact it wholly. Hence it became necessary to establish commissions of cardinals

in order to attend to special classes of business; and accordingly the Roman Congregations were instituted. After the introduction of those Congregations the duties of the Consistory became very much lightened, its sphere of operation being considerably limited. The Consistory was of two kinds, secret and public, called respectively ordinary and extraordinary, according as the members of the Sacred College alone were to be present or others also to be invited, such as bishops, ambassadors, etc. Under the new reorganization of the Roman Curia the Sacred Consistory remains. It is likewise to be noted that under the new régime, besides the Sacred Consistory, the Roman Curia is to comprise certain Congregations, Tribunals, and Offices and to comprise nothing else. In our notes upon these three departments of the Curia it is advisable to follow the order laid down in the Constitution, *Sapienti consilio,* and therefore to begin with the Congregations. By the new legislation there are eleven Congregations and eleven only: others that previously existed are now abolished or united to some of the other Congregations.

CHAPTER I

The Sacred Congregation of the Holy Office: The Sacred Consistorial Congregation

This Congregation, called also the Roman and Universal Inquisition, was instituted by Paul III (21 July, 1542) and was confirmed by Sixtus V, who assigned to it specific duties—"inquirendi, citandi, procedendi, sententiandi et definiendi in omnibus causis, tam haeresim manifestam quam schismata, apostasiam a fide, magiam, sortilegia, sacramentorum abusus concernentibus." Hence it possessed jurisdiction over matters regarding faith and other questions connected with faith; it condemned bad books and attached censures to certain propositions. Its sphere of operation is somewhat altered under the new legislation; in one respect its jurisdiction is enlarged, while in some other respects it is curtailed. It has now charge of questions regarding indulgences, not only in reference to the doctrine, but also to the use of indulgences. Heretofore it belonged to the Congregation of

Indulgences and Sacred Relics, which for some years has been united to the Congregation of Rites, to give decisions regarding indulgences: henceforth this function will be discharged by the Holy Office alone. On the other hand the Holy Office has been accustomed to issue declarations and decisions concerning the precepts of the Church, such as fast, abstinence, and feasts: but by the Constitution, *Sapienti consilio,* this class of questions is transferred from the Holy Office and placed under the jurisdiction of the Congregation of the Council. Again, within recent times it appertained to the Holy Office to attend to the election of bishops, not only in Italy, but, as has been seen above, in many other parts of the Church. Henceforth the work of electing bishops for places outside the jurisdiction of the Propaganda is to be performed by the Consistorial Congregation, instead of the Holy Office. Similarly the Holy Office will not, as heretofore, be concerned with the dispensation of religious vows, since this function will pertain to the Congregation for the Affairs of Religious. However, the Congregation of the Holy Office will continue to have authority over questions concerning the Pauline Privilege, *disparitas cultus,* and *mixta religio,* in matrimonial cases; it will also belong to this Congregation to decide ques-

tions regarding the *doctrine* of the Sacraments, while a special Congregation has now been instituted, which is entitled *De Disciplina Sacramentorum.*

PERSONNEL OF THE HOLY OFFICE

The Roman Pontiff himself is Prefect of this Congregation, this rule being continued in the new legislation. One of the older Cardinals, not however the Dean of the Sacred College, is designated by the Pope to discharge the office of Secretary. Besides the Cardinals who alone are, properly speaking, members of the Congregation, there is an *Assessor,* whose duty it is to prepare the subject-matter which is to come before the Congregation; a *Commissarius,* who is always a Dominican and to whom it belongs to construct processes in criminal cases; *Promotor fiscalis,* or public accuser; Advocate of the accused; Notary and other inferior officials. Besides, in the Congregation of the Holy Office there is a body of *Consultors.* The Master of the Sacred Palace, who is by tradition a Dominican, and also the General of the Dominican Order, are *ex officio* members of this body: other Consultors are appointed by the Sovereign Pontiff from the secular and regular clergy.

METHOD OF PROCEDURE

The method of procedure in this Congregation is briefly as follows: The Consultors hold a meeting in the Palace of the Holy Office on each Monday under the presidency of the Assessor. Questions are discussed and are settled by a *consultative* vote. Then on Wednesday the same questions are brought before the Cardinals of the Congregation, who give a *definitive* vote. The Assessor in an audience with the Holy Father on the following day (Thursday) reports the decision of the Cardinals, which is then usually confirmed by the Pope *in forma communi:* only rarely is it changed or rejected. Sometimes there is a meeting of the Cardinals of the Congregation in presence of the Sovereign Pontiff, at which meeting questions discussed by the Cardinals on the preceding day are again considered and settled. The Pope may then approve the decisions *in forma specifica* and promulgate them as Apostolic Constitutions.

THE AUTHORITY OF THE HOLY OFFICE

This Congregation may issue either doctrinal or disciplinary decrees. Although the word *decree* is by some theologians and canonists distinguished from declarations and decisions, this

distinction is unnecessary in the present question, so that these words as well as responses and resolutions may be used indiscriminately. It is to be laid down as certain that whatever pronouncements this Congregation may make regarding doctrine are not in themselves infallible. They may be so approved *in forma specifica* as to become Pontifical Decrees, as has been already said; and the Sovereign Pontiff may make them even *ex cathedra* pronouncements, which are certainly infallible. In this case they would not be infallible as Decrees of the Holy Office, but because the Pope proclaimed them for the universal Church. It is deserving of notice that the Pope could not communicate to this Congregation or indeed to any Congregation his personal prerogative of infallibility. However, although the doctrinal decrees of the Holy Office be not infallible, they are nevertheless such as to demand the religious assent of the faithful; nor is it enough for a person to observe in regard to such decrees *silentium obsequiosum,* i. e. to refrain from attacking them outwardly or from teaching anything opposed to them. There is required an interior assent to the decrees. Pius IX in his Apostolic Letter to the Archbishop of Munich (21 December, 1863) declared: "Verum etiam opus esse, ut se subjiciant tum de-

cisionibus, quae ad doctrinam pertinentes a Pontificiis Congregationibus proferuntur," etc.[1] Similarly in the Decrees of the Vatican Council, Sess. 3. de Fide et Ratione, we read as follows: "Quoniam vero satis non est, haereticam pravitatem devitare, nisi ii quoque errores diligenter fugiantur, qui ad illam plus minusve accedunt; omnes officii monemus, servandi etiam Constitutiones et Decreta, quibus pravae ejusmodi opiniones, quae isthic diserte non enumerantur, ab hac Sancta Sede proscriptae et prohibitae sunt." Accordingly when the Holy See issues decrees condemning erroneous opinions, either immediately by the Pope or mediately by the Holy Office, which he employs for this purpose, it is the duty of all Catholics to observe such decrees. In order to demand interior assent to doctrinal decrees of the Holy Office it is not necessary that these be infallible. When it declares that certain doctrines are to be held or certain others to be rejected, interior assent may and ought to be given to such declarations on account of the competence of the authority from which the declarations are derived. The Church has a Divine commission to protect Catholic truth and to keep her children from anything hurtful or dangerous

[1] Cf. Denziger, 1537.

to faith: and she can exercise this commission even when she employs means which are not infallible, such as the doctrinal decrees of the Holy Office.

Apart from these *doctrinal* decrees, which the Holy Office alone of all the Roman Congregations is competent to deal with, this Congregation has also authority to publish decrees on points of *discipline*. A question has been proposed and discussed by theologians and canonists whether the decrees of the Holy Office regarding disciplinary matters are obligatory in conscience. It is presupposed that the decrees themselves are authentic and have been duly expedited *juxta Stylum Curiae*. In reply to the question several hypotheses may be made. First, sometimes the *diciplinary* decrees refer only to individuals, and are not directed to, nor intended for, any other. Such decrees have the force of particular precepts and are not binding upon any one else. Secondly, other decrees are general, so that it is clearly the intention of the Congregation to apply them to all the faithful throughout the Church. This intention may be manifested by such words as *Decretum Generale, Urbis et Orbis,* etc. In this class of cases the obligation is universal, even though the publication of the decrees was occasioned by the

question of an individual. However, a certain limitation or exception should here be made. Although such general decrees are binding upon all belonging to the Latin rite, they may not bind Catholics who belong to any of the Oriental rites. A few years ago a question was proposed to the Holy See whether the new matrimonial legislation contained in the Decree "Ne Temere" was binding upon the Orientals. "An decreto, 'Ne Temere' adstringantur etiam catholici ritus orientalis?" The answer was (1 February, 1908) "Negative." While of course the authority of the Holy See extends to all the faithful throughout the world, it is not intended by the Sovereign Pontiff that decrees purely disciplinary should be obligatory upon Orientals unless they are directed or extended to them, or unless express mention be made of them as being affected by the decrees. Thus Catholics who belong to any of the Oriental rites are bound by the Constitution, *Sacramentum Pœnitentiae,* of Benedict XIV, and by the Constitutions against Freemasonry. They are also bound by decrees which interpret the Natural or Divine positive law, as also by those which regard Catholic doctrine. Thirdly, decrees may be addressed to individuals and so be particular in their form, and yet be equivalently universal. In this class

of decrees a distinction must be made. Sometimes such decrees are so many *extensive* interpretations of laws already existing, i. e. they go beyond the proper meaning of those laws; thus they are in fact new laws, and like all laws require to be promulgated before becoming obligatory. There are also some decrees which are called *comprehensive,* viz. they are clearly contained in a law already existing: these are obligatory immediately upon all without special promulgation. But there is another supposition which may be made. The decree may be a declaration of some point of law objectively doubtful, upon whose meaning there has been a difference of opinion among approved authors. Is this decree binding without being promulgated? Here we find a controversy among theologians; some holding that the decree is binding immediately, because the law already exists and therefore needs no further promulgation to make it binding. Others are of opinion that a doubtful point regarding the meaning of a law, when settled by a Congregation or even by the Sovereign Pontiff, needs to be promulgated before the obligation arises. This second opinion seems to be probable intrinsically, as well as from the weight of authority supporting it. When the law is so doubtful that approved theologians hold con-

tradictory opinions regarding its existence, a decree of the Congregation interpreting it is equivalent to a new law. When one examines modern theologians treating the question, he finds many in favor of this view, so that it seems to be safe in practice. However, if several decrees have been issued confirming the decision or interpretation previously given, this should be held sufficient to bind all without formal promulgation.

It should be observed also that all privileges and dispensations that are granted by the Congregation of the Holy Office within the province assigned to it, are to be considered valid according to the tenor of the rescript.

In order to avoid repetition when treating of each of the Roman Congregations, it will not be out of place here to notice that the rule for determining the extent of the obligation as given above for the Congregation of the Holy Office, may be equally applied to the other Roman Congregations. The new Constitution, while making several changes in the respective provinces of the different congregations, does not alter the obligatory force of their decrees, when the latter are issued in the required form. Owing to the peculiar work of the Congregation of the Holy Office, engaged as it has been with *doctrine,* the

rule referred to has been more frequently applied to the decrees of some of the other Congregations than to those of the Holy Office. Thus when one examines the *Decreta Authentica* of the S. Congregation of Rites, he finds a large number of them addressed immediately to individuals, who propose questions upon one subject or another within the province of that Congregation; but he also finds some *decreta generalia.* Another Roman Congregation which has issued a vast number of decrees, particular and general, is the Congregation of the Council of Trent. Some of these decrees are to be interpreted *comprehensive;* others, *extensive.* There occurs to the mind of every one moderately versed in the decrees of the Roman Congregations the example of the sponsor in a private Baptism—how far he contracts a spiritual relationship with the person for whom he acts as sponsor and with his parents. It is quite certain that two decrees were issued by the S.C.C. upon this question, one particular, and the second general. Both state that the impediment of spiritual relationship is contracted in such a case. Yet afterwards eminent authors, such as St. Alphonsus, not aware of the existence of those decrees, held the contrary opinion. Many years subsequent to the issuance of these decrees, the Holy See

gave its approval to the opinions held by this great Doctor of the Church in his *Moral Theology;* nor has there been since the date of that approval (5 July, 1831) any condemnation from Rome of the particular opinion referred to. Accordingly we find a number of eminent theologians holding that these decrees touching the question of spiritual relationship in a private Baptism on the part of the sponsor are to be understood *extensive* and that they are the expression of a new law, which has never been duly promulgated and is therefore not obligatory. There are other theologians equally eminent who hold that those decrees are to be taken *comprehensive,* interpreting a law already existing and consequently not requiring any further promulgation. It is not to our present purpose to offer any opinion upon this disputed point, but only to draw attention to the distinction of extensive and comprehensive interpretation, a distinction which not infrequently recurs when there is question of rightly interpreting a decree of one of the Roman Congregations.

The Consistorial Congregation

This Congregation, it should be noticed, is different from the Sacred Consistory, or Sacred

College of Cardinals. It derives its name, however, from the S. Consistory, since its chief duty has been to prepare matter by examination and discussion for the Consistory. It was instituted by Sixtus V in 1587.

ITS COMPETENCE

According to the Constitution *Sapienti consilio,* this Congregation comprises two distinct parts. The first is thus set forth in the words of the Constitution: "To the first appertains not only the charge of preparing what is to be done in the Consistories, but also, in places not subject to the Congregation *de Propaganda Fide,* of founding new dioceses, and *chapters* both *cathedral* and *collegiate;* of dividing dioceses already constituted; of electing bishops, apostolic administrators, coadjutors, and auxiliary bishops; of instituting the canonical investigations or *processus* concerning those to be elected and of diligently sifting the acts of these processes; of ascertaining the knowledge of those who are to be elected. But when the men to be elected, or the dioceses to be constituted or divided, are outside Italy, the officials of the Office for Public Affairs, commonly called the *Secretariate of State,* shall themselves receive

the documents and draw up the statement (*Positionem*), to be submitted to the Consistorial Congregation."

The meaning of this part of the Constitution is sufficiently obvious, needing no interpretation or commentary; the duties here assigned to the Consistorial Congregation clearly prove the great importance of the work committed to it.

The second part of the work of the Consistorial Congregation comprises all that relates to the government of each diocese not subject to the Congregation of Propaganda—business which was heretofore performed by the Congregation of Bishops and by the Congregation of the Council. Hence the fulfilment of episcopal obligations, the *relatio status* made by bishops regarding the condition of their dioceses; the ordering of apostolic visitations and the examination of what has been done in them; in fine, all that appertains to the government and studies of seminaries come within the province of this Congregation. There is to be noted a peculiarity of the Consistorial Congregation, viz., that it possesses authority to solve whatever doubts may arise regarding the competence of each of the Roman Congregations. For example, if a question were proposed to the Congregation of the Holy Office regarding one of the Sacraments,

it might be held by this Congregation that it belonged to the Congregation *De Disciplina Sacramentorum;* while if it be referred to the latter Congregation, an opposite decision might be given, viz., that it should be solved by the Congregation of the Holy Office, as involving a point of doctrine. In such cases the Consistorial Congregation possesses authority to decide which Congregation should settle the question.

PERSONNEL OF THE CONSISTORIAL CONGREGATION

The Pope himself is Prefect of this Congregation, as he is of the Congregation of the Holy Office. The members of this Congregation are to consist of the Cardinal Secretary of the Holy Office and the Cardinal Secretary of State, both *ex officio* members; and others whom the Sovereign Pontiff may select. The Secretary of this Congregation is to be a cardinal chosen by the Pope; but there will be another prelate having the title of Assessor, who will fill also the office of Secretary of the Sacred Consistory. Heretofore the Consistorial Congregation had no Consultors, although it had some inferior officials; but under the new regulation, besides the Assessor of the Holy Office and the Secretary of the Congregation for Extraordinary

Affairs who are *ex officio* Consultors during their respective terms of office, there are other Consultors to be selected by the Sovereign Pontiff. No doubt the reason for this change is to be found in the increased amount of business assigned to this Congregation.

CHAPTER II

The Sacred Congregation on the Discipline of the Sacraments: The Sacred Congregation of the Council: The Sacred Congregation for the Affairs of Religious

In the introduction to this commentary it was pointed out that the changes brought about by the Apostolic Constitution, *Sapienti consilio,* were of such practical importance for priests and clerics in general, that the professors in our seminaries would have to take cognizance of them in their course of Canon Law, and that certain changes would be required in our text-books for seminarists. This applies in particular to the chapters dealing with the sphere of operations and jurisdiction assigned to each of the Roman Congregations and Tribunals; likewise to the mode of procedure when business is to be transacted with one or other of the various departments of the Holy See. It would not only cause considerable delay in disposing of difficult questions and contentions if the matter were addressed to a Tribunal not competent to deal

with it, but the *acta* might in some cases be altogether ignored or lost sight of, to the great detriment of the appellants. We have been so long accustomed to deal with only one Congregation, that of the Propaganda, that there is a special difficulty for us and for those countries like the United States, which have now been removed from the authority of that Congregation.

We have previously considered two of the Roman Congregations and now proceed to treat of the others, following the order set down in the Constitution, *Sapienti consilio.* It is deserving of notice that the Congregation of the Holy Office and the Consistorial Congregation differ from the remaining nine not only in the kind of business entrusted to them, but also in other respects, viz., that the latter have each a Cardinal appointed as Prefect, while the two Congregations just named have for Prefect the Roman Pontiff himself. This fact does not, however, imply that the Pope is always present at the deliberations of these two Congregations; nor does it imply that the other Congregations are not competent to make enactments, particular or general, which are strictly binding in conscience upon those to whom they refer.

The Congregation on the Discipline of the Sacraments

This is a new Congregation instituted by the present Sovereign Pontiff under the Constitution *Sapienti consilio.* As the name indicates, it deals with questions relating to the discipline of the Sacraments. Questions of *doctrine* regarding the Sacraments are to be decided by the Congregation of the Holy Office, while questions concerning the ceremonies to be observed in the confection, administration, and reception of the Sacraments are to be settled by the Sacred Congregation of Rites. There remains, however, an extensive field of work for the new Congregation. Whatever dispensations in the *forum externum* are to be granted in the impediments of matrimony come within the province of this Congregation. We say *forum externum,* because matrimonial dispensations in the *forum internum* belong to another branch of the Roman Curia, viz., the Tribunal of the Penitentiaria. It may be noticed that heretofore recourse was had from countries not subject to the Propaganda, to the Dataria for matrimonial dispensations *in foro externo,* whilst under the new régime this work falls not to the Dataria, but to the Congregation on the Sacraments.

Hitherto the Penitentiaria was empowered to give dispensations *in foro externo* for *pauperes* in the technical sense of the term, but it does not any longer possess this faculty, since it is altogether confined to the *forum internum,* as will be afterwards seen.

When it is said that the Congregation on the Sacraments is competent to grant dispensations in matrimonial impediments, it is not intended to imply that our Bishops will not continue to possess the same faculties for matrimonial dispensations hitherto possessed by them, although they will not receive them through the channel of the Propaganda, but through the Congregation on the Sacraments. It is to be hoped that their powers will be equally extensive as before, since the same reason will continue to exist in favor of a similar communication of faculties. Thus, whilst it belongs to the Congregation on the Sacraments to grant dispensations *in radice* for matrimony, the Bishops through the favor of the Apostolic See will be authorized, it is hoped, to grant dispensations *in radice* as hitherto. It may be worth while here to notice that this faculty, *sanandi in radice,* as possessed by our Bishops was not until a few years ago definitely determined. Credit is due to the present Bishop of Covington for having obtained

answers from the Holy Office regarding the extent as well as the limitations of the faculty given to the Bishops of the United States in the formula—"Sanandi in radice matrimonia contracta, quando comperitur adfuisse impedimentum dirimens, super quo ex Apostolicae Sedis indulto dispensare ipse possit, magnumque fore incommodum requirendi a parte innoxia renovationem consensus, monita tamen parte conscia impedimenti de effectu hujus sanationis." Anyone who refers to the "Ecclesiastical Review" for 1906 (Vol. 35, p. 627) will find the *quaesita* and the responses relative to this faculty; and it may be observed in passing that in order to grasp their full tenor something more than a cursory glance is required. At least the present writer has so found for himself.

It may be here added that the faculty *sanandi in radice* given to the Bishops of the United States, though remaining in form the same, has been modified in consequence of the *Ne temere* Decree, which took effect from Easter, 1908. The precise features of this modification are given in Responses of the Holy Office to the Bishop of Natchitoches, 20 April, 1910. A commentary upon these responses by the present writer may be found in the "Ecclesiastical Review" for August, 1910.

If need should arise for the exercise of a more extensive faculty than is possessed by the Bishops, it will be necessary to refer to the Congregation on the Sacraments to procure the requisite power. Thus if two parties were invalidly married on account of the existence of some ecclesiastical impediment, and neither of them could be informed of the impediment, the present faculty of the Bishops would not suffice. Then this case should be forwarded to the Congregation on the Sacraments, so that a special faculty might be obtained. Similarly, when a dispensation *in matrimonio rato non consummato* is to be obtained, application must be made to the same Congregation. In modern times the Holy See dispenses not infrequently in this impediment, as may be seen from the Roman documents. When grave reason exists and when incontestable proofs are presented to show that the marriage was not consummated, the Sovereign Pontiff may grant a dissolution of the bond of marriage. This power is not communicated to our Bishops in the United States; so that if a case should arise for its exercise, application must be made to the Congregation on the Sacraments, which is the only Congregation competent to grant it. The same Congregation can grant a

dispensation for the separation of married couples and for the legitimation of children, but it will very rarely happen that for either of these purposes it will be necessary to refer to the Congregation on the Sacraments, since the Bishops already possess very ample faculties to deal with these cases.

The Congregation on the Sacraments is likewise competent to issue decrees and grant dispensations in the other Sacraments. Hence if a dispensation is to be obtained for the ordination of some person who has a canonical impediment, it is to be sought for from the Holy See through this Congregation. Again it is to be noted that so long as our Bishops retain their powers in matters of this kind it will be rarely necessary to refer to Rome. It should be observed that there is a limitation placed to the authority of this Congregation on the Sacraments, viz., when there is question of conferring orders on religious of simple or solemn vows, this Congregation is not competent to grant a dispensation: the case must be referred to the Congregation for the Affairs of Religious, unless the Bishops with their present faculties have power to deal with it. Those Bishops who have received Formula T (as many of the Bishops of the United States have) possess the faculty of

dispensing both seculars and religious from the canonical age for priesthood, as follows: "Dispensandi cum quindecim utriusque Cleri Diaconis suae jurisdictioni subjectis super defectu aetatis octodecim mensium, ut eo non obstante ad sacrum Presbyteratus ordinem promoveri possit, dummodo idonei sint et nullum aliud eis obstet canonicum impedimentum."

There is another Sacrament in regard to which the authority of this Congregation is likely to be exercised, viz., the most Holy Eucharist. Dispensations regarding the time, place, and condition for receiving Holy Communion are committed to this Congregation. Questions of this kind were heretofore settled by the Congregation of the Council of Trent (S.C.C.). It is well known that the celebrated Decree on Daily Communion (29 December, 1905) was issued by the Congregation of the Council, which had been commissioned for this purpose by the Sovereign Pontiff. It was the same Congregation which more recently (7 December, 1906) issued a decree in favor of sick persons who, although not in danger of death, might under certain conditions be admitted to Holy Communion without observing the fast usually required. It was likewise that Congregation which obtained an extension of the decree just referred to in favor of

those who were not confined to bed. All questions of this sort will be settled henceforward, not by the Congregation of the Council, but by the Congregation on the Sacraments. Similarly the faculty "Deferendi SSum. Sacramentum ad infirmos sine lumine," etc., which we have had from the Propaganda, will belong to the Congregation on the Sacraments to communicate to this country. The Bishops of the United States possess the faculty, more or less extensive, by which they can permit the Blessed Sacrament to be reserved in public or semi-public oratories. Thus in the Archdiocese of St. Louis permission is given to each Community of Sisters of four members to reserve the Blessed Sacrament in their chapel. Dispensations enabling the priests to binate on Sundays and holidays of obligation, to celebrate Mass "una hora ante auroram et una post meridiem," will be communicated through this Congregation: permission for a private oratory and any other permissions relating to the celebration of Mass are to be obtained through the Congregation on the Sacraments.

Whenever questions arise regarding the validity of Matrimony or of Holy Orders, it belongs to the Congregation on the Sacraments to settle them, without prejudice, however, to the Con-

gregation of the Holy Office. It has been seen that this latter Congregation is competent to decide questions concerning the Pauline Privilege, the impediments of *disparitas cultus* and *mixta religio,* as also all questions of a doctrinal character; hence these questions do not belong to the province of the Congregation on the Sacraments. It should also be noticed that questions relating to the Sacraments will sometimes require to be treated judicially, including the examination of witnesses, employment of advocates, etc. The judicial process will often occur in matrimonial cases. The Congregation on the Sacraments is not empowered to treat such questions; but under the new Constitution *Sapienti consilio*, they are to be transmitted to the Tribunal of the Rota.

PERSONNEL OF THE CONGREGATION

One of the Cardinals is chosen by the Sovereign Pontiff to preside over this Congregation as Prefect: other Cardinals are likewise appointed by him as members. Besides, it has a Secretary along with some Officials and Consultors. What is here said concerning the personnel of the Congregation on the Sacraments is to be applied to each of the remaining Congre-

gations of the Curia. There is a Cardinal Prefect appointed for each Congregation and a number of the Sacred College along with him as members; a Secretary as well as other Officials and Consultors. What are the duties devolving upon the Prefect, Secretary, and other Officers connected with each Congregation, as well as the method of procedure, will be seen in a subsequent chapter.

Congregation of the Council

This Congregation was instituted on the 2 August, 1564, by Pius IV, and in the order of time was the second of the Roman Congregations, the first, that of the Holy Office, having been established in 1542.

FORMER COMPETENCE

Its original purpose, as may be surmised from its title, was to urge the execution and observance of the Decrees of the Council of Trent; subsequently it obtained from Pius V authority to *interpret* these decrees, so that it received the title of Congregation of the Cardinals, Interpreters of the Council of Trent. Its authority was confirmed in the constitution *Immensa,* by

Sixtus V, who determined its province more particularly, declaring that the interpretation of the Tridentine decrees relating to dogmas of Faith was to be reserved to himself, while the disciplinary decrees were left to the interpretation of this Congregation, with the condition that in issuing decrees the Roman Pontiff should be consulted. It did not possess authority to make new laws for the entire Church, unless it received a previous mandate from the Sovereign Pontiff, or unless its decrees were specially confirmed by him. To its province belonged various causes which were explicitly or implicitly contained in the Tridentine decrees, such as the rights and obligations of bishops, chapters, parish priests, benefices, the validity of ordination and of solemn profession, *sponsalia* and matrimony. It also possessed the authority of judging in contentious cases; for which purpose it might proceed according to law and the strict forms of trial, or according to equity. It has likewise possessed power to grant dispensations and favors in many matters falling within its jurisdiction, while in others it only recommended that the Holy Father should be asked to grant the petition. As has been already noticed, it was this Congregation which dealt with various questions relating to the Holy Eucharist, which now belong to the Congrega-

tion on the Sacraments. The Congregation of the Council was competent to examine the *relatio status* which bishops made to the Holy See regarding the condition of their respective dioceses; also to revise the Acts and Decrees of particular councils. Its jurisdiction extended throughout the Church, except in those countries subject to the Propaganda and in the Orient. The work of this Congregation was so heavy that Benedict XIV in 1740 instituted a special Congregation, subsidiary, however, to the Congregation of the Council, for the purpose of examining the reports of bishops on the state of their dioceses; and Pius IX in 1849 established another, also subsidiary to the Congregation of the Council, for the purpose of examining and recognizing the Acts and Decrees of provincial councils. From what has been said regarding the ecclesiastical business hitherto belonging to the Congregation of the Council, the reader will be better able to understand the present field of work assigned to it.

ITS COMPETENCE UNDER THE NEW LEGISLATION

When one compares the large province hitherto appertaining to the Congregation of the Council with that assigned to it under the legis-

lation of the *Sapienti consilio,* the difference is very notable. It has no longer any authority to legislate or to render judgment upon questions relating to the Sacraments. It will issue no more decrees regarding the validity of marriage, or of ordination; nor will it in future issue decrees on daily Communion, or on the fast required for receiving this divine Sacrament. All these matters pass to the jurisdiction of the Congregation on the Sacraments. It will no longer be concerned with the obligation of bishops or with the *relatio status* rendered by them, because these questions are now assigned to the Consistorial Congregation. Similarly, this Congregation will not pronounce upon the validity or invalidity of religious Profession, since questions of this kind are placed under the jurisdiction of the Congregation for the Affairs of Religious. It would, however, be erroneous to suppose that the Congregation of the Council does not possess authority to make enactments regarding certain Tridentine decrees, or that it has no longer an extensive field of operation. The new Constitution sets down that the universal discipline of the secular clergy and of the Christian people is committed to this Congregation. It belongs to it to watch over the observance of the precepts of the Church, fast, absti-

nence, feasts, etc., and to grant for sufficient reasons dispensations in ecclesiastical precepts. But in the fast required for Holy Communion it is no longer competent to make regulations, this matter being now assigned to the new Congregation on the Sacraments. Although the Congregation of the Council is no longer competent either in a legislative or judicial capacity to deal with questions concerning the Holy Sacrifice of the Mass, it continues to have authority over questions relating to stipends for Masses. Hence while there have been various enactments on this subject made even in modern times, such as the decree *De observandis et evitandis in Missarum manualium satisfactione,* 11 May, 1904, and the Decree of 22 May, 1907, *De satisfactione Missarum,* we may in the future have other decrees on this subject from the same Congregation, since this matter is included within the present scope of its functions. Again, questions that relate to sodalities, pious legacies, benefices, diocesan tributes, and ecclesiastical property will be solved by this Congregation. As heretofore in the United States occasion will often arise for the alienation of ecclesiastical property so that when our bishops with their present faculties for granting such alienation cannot grant permission for a required transfer,

recourse must be had to the Congregation of the Council for permission. This Congregation has also received authority to direct the celebration of Councils, examine their Acts and Decrees, and finally grant the recognition necessary for their validity. This authority applies to all *particular* councils, whether plenary or provincial, outside the countries subject to the Propaganda; the enactments of diocesan synods do not require any examination or recognition from the Holy See. When the bishops of an ecclesiastical province or of a nation meet together to deliberate upon any important question, it belongs to this Congregation to give directions concerning such meeting or conference.

The Congregation formerly instituted for the revision of councils is now suppressed, its functions being assigned to the Congregation of the Council. There is a special Congregation called *Lauretana* or Congregation of Loreto which is now united to the Congregation of the Council. Toward the close of the fifteenth century the Sovereign Pontiff withdrew the celebrated sanctuary of Loreto from the jurisdiction of the Bishop of Reconati, in whose diocese it was situated, and placed it immediately under the Apostolic See. So it remained until 1698, when Innocent XII instituted

a Congregation of Cardinals and prelates to take charge of it. This Congregation exercised civil authority over it until 1860 when the Piedmontese annexed the province of Picenum. Although this Congregation has retained the fiscal management as well as spiritual supervision of it since that time, the Italian Government declared it a national monument. There is another point of difference to be noticed between the Congregation of the Council as now established under the new Constitution, and the Congregation of the same name as hitherto existing. The former has no jurisdiction to try cases by judicial process; cases requiring such process are to be handed over to the Tribunal of the Rota; heretofore the Congregation frequently proceeded judicially with the assistance of advocates.

The Congregation for the Affairs of Religious

More than three hundred years ago there was instituted a Congregation which resembled in name and purpose the one which has just been set down. On the 22 May, 1586, Sixtus V established a Congregation, "Super consultationibus Regularium," whose chief object was

to answer questions and solve difficulties proposed by Religious Orders. Somewhat earlier another Congregation had been instituted, which was called by Gregory XIII "Episcoporum Congregatio." This latter Congregation was confirmed on 22 January, 1588, by Sixtus under the title, "Super consultationibus Episcoporum et aliorum Praelatorum." Both of these Congregations were united in 1601 under the name, "Congregatio Episcoporum et Regularium," with the purpose of effecting for Bishops and Regulars what had been done by the two Congregations just named. Under this title it remained until 3 November, 1908.

COMPETENCE OF THE CONGREGATION OF BISHOPS AND REGULARS

The scope of its functions may to some extent be gathered from its title. It was concerned with the obligations of bishops and other prelates, with the obligations of regulars, and with the relations between bishops and regulars. It did not treat of matters of doctrine, since questions of this kind belonged exclusively to the Holy Office; nor was it competent to give formal interpretation of the Tridentine decrees or to conduct marriage processes, both of which

belonged to the province of the Congregation of the Council; it did not occupy itself with the rites and ceremonies, because this duty belonged to the Congregation of Rites. But in all other ecclesiastical affairs it possessed jurisdiction and was called by Urban VIII and many others after him a universal Congregation. It did not, however, possess the power of making laws or of interpreting laws for the entire Church, its authority being chiefly administrative and judicial. Canonists and others who have written on the Roman Congregations refer to this one as the busiest of all the Congregations—"*occupatissima.*" No doubt it was the overwhelming amount of business which was transacted by this Congregation which led to the important change to be indicated presently. Its principal functions related to bishops and to religious orders. Appeals of priests or members of the laity against the ordinances and decisions of bishops came before this Congregation for judgment. Controversies arising between different religious orders, appeals of religious from their own superiors, dispensations from religious vows, the approbation of newly-founded communities with simple vows, etc., were some of the questions which were presented to this Congregation for settlement.

Under the new Constitution, *Sapienti consilio*, the Congregation of Bishops and Regulars as such ceased to exist on 3 November, 1908. The portion of its functions relating to bishops and the administration of dioceses has been assigned to the Consistorial Congregation; the remaining portion is placed in charge of a new Congregation whose title is "The Congregation for the Affairs of Religious."

COMPETENCE OF THE CONGREGATION FOR THE AFFAIRS OF RELIGIOUS

Matters relating to religious orders and congregations of either sex, having solemn or simple vows, are under the jurisdiction of this Congregation. Not only religious themselves, but also all those who lead a community life, like religious, without having the vows of religion, are subject to the same Congregation. Among these may be mentioned Sulpicians, Oratorians, and Paulists. Besides, what are called secular Third Orders are under the authority of this Congregation. It may be here noted that the members of these third orders are not religious, even in the less strict sense of the term, since they do not take the three vows of religion. They have, however, an approved rule and are placed under

the government of a religious order and should strive after Christian perfection so far as their secular condition of life permits. Besides the Third Order of St. Francis, there are many other secular third orders, such as that of the Dominicans, the Premonstratensians, the Carmelites, Hermits of St. Augustine, and the Servites. All questions relating to any of the third orders belong to the province of the Congregation for the Affairs of Religious.

All questions of controversy between religious themselves, and all questions between a religious and anyone else, whether the religious be plaintiff or defendant, belong to this Congregation for adjustment. There is, however, a certain limitation to be made. If the cause be such as to require treatment according to regular process of law with the examination of witnesses, employment of advocates, etc., this Congregation cannot give a decision but must refer it to the Tribunal of the Rota.

The Congregation for the Affairs of Religious is endowed with authority to grant dispensations to religious. The Sovereign Pontiff setting forth the matters in which it is competent says in the Constitution "Huic denique Congregationi reservatur concessio dispensationum a jure communi pro sodalibus religiosis." The

reader may here notice a feature which distinguishes the Roman Curia now reorganized, from the Curia hitherto existing. There are some kinds of ecclesiastical business which did not belong exclusively to one department of the Curia, so that they might be performed by any one of several departments: in other words, there were some matters in which the Congregations and Tribunals possessed cumulative, not privative or exclusive jurisdiction. In the new Curia there is no cumulative jurisdiction; each department has a certain well-defined province for the exercise of its authority, outside of which it possesses no power. Accordingly no other Congregation can grant religious a dispensation from the common law except the Congregation for the Affairs of Religious, such authority being declared reserved to this Congregation. It does not follow, however, that individual religious can not be dispensed by local superiors from precepts of the Church, such as fast and abstinence; or that regulars are deprived of the use of indults in abstinence granted to a diocese within whose limits the monastery is situated. Then, concerning the institutes of simple vows the Constitution of Leo XIII, *Conditae* (8 December, 1900) is still in force. The bishops have authority to grant dispensations to those religious who belong

to an institute recognized or approved by the Holy See, just as they are empowered to dispense the faithful of their respective dioceses.[1] *A fortiori* the bishop can dispense the members of a diocesan institute, since these are under his authority to a greater degree than the members of an institute approved by the Holy See. Nor is there any doubt about the application of diocesan indults to the institutes of simple vows, since even regulars who are exempt from episcopal jurisdiction may use these Indults.[2] Whether the Sovereign Pontiff grants the foregoing faculties for dispensing religious through the Congregation for the Affair of Religious, or through some other channel is not a question of much practical importance; but it is to be presumed that these faculties continue until the Sovereign Pontiff himself immediately, or through this Congregation, indicates their cessation.

It is proper here to observe that this Congregation has authority to dispense religious not only from precepts of the Church, but also from their religious vows. This power is not expressed in so many words under the section of the Constitution, *Sapienti consilio,* dealing with this Congregation: but it is distinctly set forth

[1] Cf. *Conditae,* n. 5, V.

[2] Cf. rescript of H. Office, 20 December, 1871.

in another section of the same Constitution, where the Sovereign Pontiff is treating of the competence of the Congregation of the Holy Office—"relaxationem vero votorum in religione seu in religiosis institutis emissorum Congregatio negotiis sodalium religiosorum praeposita." Hence questions of dispensing religious from their vows belong to this Congregation and indeed exclusively, according to the sense already indicated, viz., that no other Congregation or Tribunal posseses authority in this matter. But, just as in the case of dispensing religious from the common law, the authority is not to be considered withdrawn from the superiors of regulars toward their subjects or from bishops toward members of an approved or diocesan institute. Accordingly, whatever faculty has been possessed heretofore by superiors-general of dispensing from vows of religion or by bishops in dispensing members of a diocesan institute, the same should be considered as still in force, so long as there is no notification of its discontinuance or curtailment. Hence the bishops of the United States have still the power of dispensing even from the vow of chastity the members of an institute not approved by the Holy See. Heretofore when the faculty of dispensing from the vow of chastity was exercised by the Holy

See in behalf of a female religious, it was usually exercised with a limitation, i. e. for one matrimony and by way of commutation: and bishops followed the same practice in granting a dispensation from the vow of chastity for Sisters belonging to a diocesan institute. It seems that recently this faculty has been exercised in behalf of Sisters, just as it was and is for male religious, viz. absolutely without any limitation or commutation.[1] It is scarcely necessary to observe that a dispensation from vows requires a just cause even for the validity. The reason is evident. The obligation of a vow exists by divine law; and the Divine Legislator cannot be supposed to confer upon any human being authority to relax the obligation except for a just cause. Hence even if the Holy Father were to dispense in a vow without just cause, the dispensation would be invalid; while if he dispensed in a law of the Church without cause, the dispensation, although illicit, would still be valid.

[1] Cf. Vermeersch, *De Religiosis Institutis, edit.* 1907, n. 221, nota 1.

CHAPTER III

The Sacred Congregation of the Propaganda

We have briefly discussed three Congregations of the Roman Curia, viz. the Congregation on the Discipline of the Sacraments, the Congregation of the Council, and the Congregation for the Affairs of Religious. It is proposed in the present chapter to consider the Congregation of the Propaganda, following the order laid down in the new Constitution, *Sapienti consilio.*

The Congregation de Propaganda Fide

ITS ORIGIN

This Congregation was instituted by Gregory XV in his Constitution, *Inscrutabili* (22 June, 1622). There had been a Commission of Cardinals appointed by one of his predecessors, Gregory the thirteenth, for the purpose of preserving Catholics of the Greek rite from falling into heresy and of bringing back schismatics into

the Church; and this Commission was raised even to the dignity of a Congregation. However, it was reserved for Gregory XV to erect the Congregation bearing the title of the Propagation of the Faith, to assign to it its sphere of work, and to confer upon it the requisite faculties. In the Constitution just referred to, *Inscrutabili*, the Sovereign Pontiff sets forth the duties and authority of the members of the Congregation, as follows: "Omniaque et singula negotia ad fidem in universo mundo propagandam pertinentia cognoscant, et tractent, et graviora quae in praedicta domo congregati tractaverint, ad Nos referant; alia vero per se ipsos decidant, et expedient pro eorum prudentia. Missionibus omnibus ad praedicandum et docendum evangelium, et Catholicam doctrinam superintendant, ministros necessarios constituant, et mutent. Nos enim eis, tam praemissa, quam omnia et singula alia desuper necessaria et opportuna, etiamsi talia fuerint, quae specialem, specificam, et expressam requirant mentionem, faciendi, gerendi, tractandi, agendi et exequendi, plenam, liberam, et amplam facultatem, auctoritatem, et potestatem, Apostolica auctoritate, earundem tenore praesentium concedimus et impartimur." It is evident from these words of the Roman Pontiff that the members of this Congregation

were entrusted with a very extensive field. They were to take cognizance and to treat of all business pertaining to the propagation of the faith throughout the world. While the more serious questions were to be referred to the Pope, they were to decide and expedite everything else according to their prudence. They were to have a supervision over all Missions for teaching Catholic doctrine, appointing ministers for this purpose and changing them according to their discretion; for all of which they were to receive ample authority from the Apostolic See.

Regarding the Congregation de Propaganda Fide there are two questions which readily occur to the mind, and which need to be answered in order to understand the work assigned to it. The first is—*where* does it exercise its jurisdiction; the second, what is the *matter* of its jurisdiction.

TERRITORY OF ITS JURISDICTION

It is well to observe that all the countries to which the Catholic Church extends, or where it has any existence, are divided into two classes. One is known as *Provinciae Sedis Apostolicae;* the other, *Terrae Missionum.* In the former

class the Congregation de Propaganda Fide possesses no jurisdiction, while in the latter it does.

MISSIONARY COUNTRIES

Terrae Missionum or missionary countries are of several kinds. There are some districts over which the Sovereign Pontiff appoints Prefects Apostolic—districts in which, the Gospel having been preached by missionaries, he appoints some priest as superior of the mission with some other priests to carry on the work of teaching the Catholic doctrine and administering the Sacraments. This prefect receives special faculties, some of which he can communicate to those priests who are laboring in the sacred ministry under him. There are other places where the Catholic Church has made greater progress and over which the Sovereign Pontiff has appointed vicars recommended by the Congregation of Propaganda—vicars who rule the respective districts assigned to them in the name and by the authority of the Pope himself, and hence are called vicars apostolic. These are usually bishops; but they differ from *ordinary bishops,* since the latter exercise jurisdiction in their own name, because they receive it attached to the office conferred upon them by the Pope; the former exer-

cise the jurisdiction immediately delegated to them by the Pope. Hence vicars apostolic perform their functions with *delegated* jurisdiction; the other bishops with ordinary jurisdiction, although in *some* ecclesiastical matters they may have only delegated jurisdiction. Besides, there is a third class of places in which bishops possess ordinary jurisdiction, and still have not been appointed to govern their dioceses according to the common law of the Church. Such was the greater part of the United States until November, 1908, when the new Constitution came into force.

It is interesting to note that, while countries in which the bishops had ordinary jurisdiction and the common law did not prevail, were under the authority of the Propaganda Congregation, a considerable diversity of method existed regarding the manner of appointing bishops. This statement may be easily illustrated from countries which have hitherto been under the Propaganda. Thus in the United States the mode of appointing bishops is somewhat different from that which existed in Canada. In the latter the bishops of the province alone select the names of three candidates to be sent to the Propaganda; whilst in the United States the irremovable rectors and consultors of the vacant

diocese choose three names; and afterward the bishops of the province deliberate upon the names thus chosen, and either recommend these to the Propaganda or select three other names. In this latter supposition they should give their reason for rejecting the names of those selected by the rectors and consultors. In England the members of the diocesan chapter select three names, the rectors having no share in the selection. Afterward the bishops of the province meet to consider these names and send forward their report on each candidate to Rome without choosing a list of new candidates. In Ireland each parish priest and canon of a diocese has a vote in the selection of three names; the bishops of the province meet and discuss the merit of the names chosen, but, like the bishops of England, and unlike those of the United States, cannot send a new list of candidates. Notwithstanding the foregoing diversity of practice in missionary countries, it is to be remembered that the selection of names for bishoprics is nothing more than a commendation, since the real appointment is made by the Sovereign Pontiff himself, who however is usually guided by the advice of the Propaganda Congregation.

When one examines the section of the new Constitution, *Sapienti consilio,* regarding the

Congregation de Propaganda Fide, two features are seen to be more prominent than the rest. One is the change effected in its territorial jurisdiction; the other is the change in the subject-matter of this jurisdiction.

CHANGE IN TERRITORIAL JURISDICTION OF THE CONGREGATION

In reference to this question it will be useful to quote from the Constitution itself. "From the jurisdiction of the Congregation de Propaganda Fide we decree the transference under the common law: in *Europe,* of the ecclesiastical provinces of England, Scotland, Ireland, and Holland, and of the diocese of Luxembourg; in *America* of the ecclesiastical provinces of the Dominion of Canada, Newfoundland, and the United States. Hence, affairs relating to these places shall not in future be treated by the Congregation of Propaganda, but by the other Congregations, according to the nature of the business." Here then we have a list of those countries which have been heretofore under the jurisdiction of the Propaganda Congregation, and which are now by the new Constitution withdrawn from it, being placed, as they are, under the jurisdiction of other Congregations accord-

ing to the character of the business to be transacted. By this act of the Sovereign Pontiff some 30,000,000 of Catholics, about 25,000 priests and over 200 bishops have been brought under the common law of the Church, although this decree is not yet carried into effect except so far as the transaction of business formerly referred to the Propaganda is now performed by the proper Congregations. There is, nevertheless, a certain modification to be noticed. While the countries just named have been withdrawn from the authority of the Propaganda, it would appear that certain portions of some of them still remain subject to it. That this is the proper interpretation of the Constitution is evident from the terms employed to express the alteration. After enumerating those countries now removed from the Propaganda, the Sovereign Pontiff sets down in the Constitution that all other ecclesiastical provinces and dioceses hitherto subject to the Congregation of Propaganda are to remain subject to it, immediately subjoining the following words, "so too we decree that to it (the Congregation of Propaganda) shall belong all vicariates apostolic, prefectures, and missions whatsoever, including those which are at present in a special manner under the Congregation for Extraordinary

Affairs." It is, therefore, manifest that all those districts which are called vicariates apostolic and prefectures are still subject to the Congregation of Propaganda, wherever they may happen to be. In the United States there are two such vicariates, the vicariate apostolic of North Carolina and that of Brownsville,[1] Texas: there is the territory of Alaska which has an apostolic prefect and which, along with those two vicariates, remains subject to the jurisdiction of the Propaganda. Similarly in Canada there are four vicariates, viz., Gulf of St. Lawrence, in the Province of Quebec, Athabaska and Saskatchewan in the Province of St. Boniface, and MacKenzie in that of Victoria; so that while the dioceses of Canada have become exempt from the authority of Propaganda, these four vicariates remain subject to it.[2]

[1] By a Decree of the Holy See, 23 March, 1912, Brownsville was erected into a diocese.

[2] This interpretation is confirmed by a recent response of the S. Consistorial Congregation (*Acta Apostolicae Sedis*, 15 Jan., 1909) in reply to certain *dubia* proposed by the S. Congregation of Propaganda regarding the competence of the latter. One of these *dubia* was: "Utrum Vicariatus Apostolici, qui tanquam suffraganei pertinent ad provincias ecclesiasticas a jurisdictione Congregationis de Propaganda, vi memoratae Constitutionis exemptas, jugiter subsint eidem Congregationi de Propaganda?" The answer was: "Affirmative, dum ita permanent. Expedit tamen ut S. Congregatio de Propaganda, quamprimum fieri possit,

Attention should be directed to those prefectures and missions which have been in a special manner under the authority of the Congregation for Extraordinary Ecclesiastical Affairs. It is decreed under the new Constitution that all these are now subject to the Congregation of Propaganda. All the missions in the Russian Empire, as also the missions of South America, are of this kind.[1] Hence it may be seen that the Congregation of Propaganda, while it has lost territorial jurisdiction in North America and elsewhere, has acquired jurisdiction in other countries to which its authority did not heretofore extend. It was owing to the vast territory subject to the Congregation of Propaganda which made its Cardinal Prefect be popularly known as the Red Pope; and it is not unlikely that for the same reason he may continue to receive this title.

SUBJECT-MATTER OF THE PROPAGANDA'S JURISDICTION

It has been seen that the authority conferred by the Sovereign Pontiff, Gregory XV, upon

memoratos Vicariatus erigat in dioeceses, eosque proinde deducat ad jus commune."

[1] Cf. Laurentius, *Institutiones Juris Can.*, n. 157.

the Congregation of Propaganda was very extensive in character. It regarded all ecclesiastical affairs whatever, with the exception that in the more important questions which might arise, the Congregation should consult the Roman Pontiff. Hence what the various Congregations were accustomed to do for those countries subject to the common law of the Church, the same the Propaganda Congregation has done for those countries placed under its jurisdiction. It has been therefore a common saying regarding the Propaganda, that "ceteras Congregationes habet in ventre". In other words, this Congregation takes cognizance within the territory assigned to it of all the ecclesiastical affairs of which the other Congregations take cognizance in regard to the rest of the Church. All business relating to the supreme government of missionary countries has been transacted by the Propaganda; hence it has possessed legislative authority empowering it to make obligatory enactments for any country subject to it. When questions of doctrine were proposed to the Propaganda for solution, it was the general practice of this Congregation to refer them to the Holy Office. There was not, however, any obligation of this kind imposed upon the Propaganda Congregation, since no prohibi-

tion was issued to prevent it from giving a decision on doctrinal matters. Here it is opportune to observe the difference between the subject-matter of this Congregation as heretofore existing and its subject-matter as determined by the new Constitution.

SCOPE OF PROPAGANDA HENCEFORTH

In this Constitution it is set forth that the Congregation de Propaganda Fide is not, even within its own territory, to transact business which relates to faith, or matrimony, or to the discipline of the sacred rites. Whenever such questions are proposed by any one subject to the Propaganda, this Congregation must hand them over for settlement to the proper Congregation. Matters concerning doctrine are to be transmitted to the Holy Office; matters regarding matrimony are to be referred to the Congregation on the Sacraments; and questions relating to the sacred rites are to be answered by the Congregation of Rites according to its competence.

There is another department of business in which the Congregation of Propaganda receives some restriction under the new Constitution, viz., regarding religious. When these are employed in missionary countries, they are under one

respect subject to the Propaganda, while under another respect they are exempt from its jurisdiction. Everything relating to religious, whether considered individually or collectively, so far as these are missionaries, is to be regulated by the Congregation of Propaganda. On the other hand, whatever relates to them as religious, their state, discipline, studies, promotion to Sacred Orders, etc., is under the jurisdiction of the Congregation for the Affairs of Religious. From this distinction it would follow that the Congregation of Propaganda could remove a religious or even the entire body of religious living in a missionary country: but it could make no change for religious *as religious,* e. g. in their spiritual training, since functions of this latter kind would appertain to the Congregation for the Affairs of Religious.

ANOTHER CONGREGATION UNITED TO PROPAGANDA

According to the Constitution, *Sapienti consilio,* the Congregation for the Affairs of the Oriental Rites is now united to the Congregation de Propaganda Fide. It was Pius IX who (6 January, 1862) instituted the former Congregation. As suggested by the name, its chief duty was to attend to the ecclesiastical affairs

of those who followed the Oriental rites; or in the words of Pius IX,[1] "pro omnibus Orientalium Ecclesiarum negotiis unice tractandis ac dirigendis." The business which had belonged to the Propaganda Congregation from the time of its founder, Gregory XV, was divided into two classes, one for the Latin rite and the other for the Oriental rites. The new Congregation instituted by Pius IX was to superintend the affairs of the Oriental rites, as also those which were called mixed, viz. those relating to the Oriental and Latin rites together, unless in this latter case the Congregation for Oriental Affairs might deem it expedient to refer questions to a general meeting of the Propaganda Congregation. The Prefect of the Congregation of Propaganda was to be also the Prefect of the new Congregation, while the latter was to have its own special Secretary and Secretariate with officials, as well as special Consultors. This Congregation still exists under the new Constitution, not as a separate Congregation, but as united with the Congregation of Propaganda and managing Oriental affairs as hitherto.

1 Constitution: *Romani Pontifices.*

TEMPORALITIES OF THE CONGREGATION DE PROPAGANDA FIDE

Another point of the new Constitution regarding the Propaganda should be noticed, viz. the temporalities. Hitherto there existed a *Praefectus oeconomiae* whose duty it was to supervise the temporal affairs of the Congregation, such as funds, endowments, etc. Thus there were two Prefects of this Congregation, each a Cardinal: one being Prefect General, the other Prefect of Economy. Under the new Constitution this latter office ceases and the entire administration of property is assigned to the Congregation itself. One of the sources of revenue to the Propaganda has been called the *Reverenda Camera Spoliorum.* It may be of interest to recall the fact that Pius VII was at one time obliged to draw upon some funds of the Propaganda for an urgent necessity of the Church. Afterwards, by way of compensation he decreed that funds arising from vacant benefices should be given to the Propaganda, so that this Congregation received authority to administer those funds for the purpose of defraying the expenses of missions in various parts of the world. Such funds were called *Camera Spoliorum.*

One other particular set down in the Constitution, *Sapienti consilio,* regarding the Congregation of Propaganda, remains to be mentioned. It is that the Commission for the union of dissident Churches is annexed to it. The establishment of this Commission was due to the energetic zeal of the late Sovereign Pontiff Leo XIII, who on 19 March, 1895, shortly after the publication of his famous constitution "Orientalium dignitas Ecclesiarum," instituted a permanent Council or Commission whose proper function was to further the reconciliation of dissidents. Its labors were not to be confined to the Orientals, but to extend to all who fell away from the Catholic Church through heresy or schism, whether in the Eastern or Western hemisphere. The presidency of this Commission was reserved to the Pope himself, who appointed a number of Cardinals as members, and some other ecclesiastics as Consultors. Under the new Constitution the scope of its labors and general personnel remain the same.

CHAPTER IV

The Sacred Congregation of the Index

ITS ORIGIN

During the celebration of the Council of Trent a committee of the Fathers was selected to draw up a catalogue of books which were dangerous to Catholic doctrine, and which the faithful should be forbidden to read. When performing this work, the Committee also drafted certain rules to be observed in the reading of books. These rules and the list or Index of prohibited books were carefully examined by order of Pius IV, and were approved by him in the Constitution "Dominici Gregis" (24 March, 1564). Seven years afterwards (1571) Pius V, subsequently a canonized saint, instituted a Congregation of the Roman Curia whose chief duty it was to attend to the subject of prohibiting books hurtful to faith or morals. This was the Sacred Congregation of the Index.

REASONABLENESS OF ITS INSTITUTION

There is no need here to demonstrate the authority of the Church to prohibit to the faithful the reading of pernicious literature. It follows at once from the commission of teaching the Christian doctrine to mankind and of preserving that doctrine entire and undefiled. "Predicate Evangelium omni creaturae." [1] "Docete omnes gentes, docentes eos servare omnia quaecunque mandavi vobis." [2] If the proper execution of this Commission requires the enactment of laws by the Supreme Pastor of the Church, he is fully invested with the requisite authority. "Quodcunque ligaveris super terram, erit ligatum et in coelis." [3] Now anyone can see that false teaching may be conveyed in books in regard to both what is required to be believed and required to be done—"fide et moribus." The converts of Ephesus were aware of this truth when they collected bad books and publicly burned them.[4] Accordingly it is not surprising to find in glancing over the history of the Church that she has down through the centuries assiduously exercised her authority in warding off noxious literature

[1] St. Mark 16:15.
[2] St. Matt. 28:20.
[3] St. Matt. 16:19.
[4] Act. Apost. 19:19.

from the faithful. One of the Apostolic Canons (n. 60) is directed against the publication of impious books. Anastasius I (398-402) condemned certain dangerous writings of Origen; Innocent I (402-417) condemned those of Pelagius; Leo the Great (440-461), the writings of the Manicheans. The necessity for the exercise of this authority became greater, just as pernicious literature became more widespread. Hence after the invention of the art of printing, when manifold heresies of the pseudo-reformers were scattered over Germany and other countries of Europe, it became more and more necessary to warn the faithful of the errors against faith and good morals contained in various publications. When, therefore, there appeared no just reason to expect that the publication of pernicious books would cease, the Sovereign Pontiff established a permanent organization to superintend the prohibition of books, viz. the Congregation of the Index.

THE OBJECT OF UNJUST ATTACK

From the date of its establishment down to the present year this Congregation has been over and over again the object of bitter attack, sometimes from the bigotry and ignorance of heretics and

infidels, sometimes even from so-called Catholics. Within the past few years we have seen how fiercely Modernists have written against this Congregation. Some of these writers were broaching errors of the most fatal character, declaring at the same time that men while adhering to such errors could remain good Catholics. Such writers in their attacks upon the Congregation of the Index posed before the public as broad-minded and philanthropic. Yet how senselessly! as if anyone could have a mind broader than the mind of Christ or a heart larger than His. He has placed conditions that cannot be violated without detriment to faith, and His Vicar, the Sovereign Pontiff, is the divinely appointed interpreter of these conditions. Now if this Pontiff employs the Congregation of the Index in assisting to ward off from the faithful the dangers to Christian doctrine, this surely affords no just cause of blame against the Congregation. It simply does what the Supreme Pastor of souls expects and requires it to do.

ADAPTATION TO PRESENT CONDITIONS

After the institution of the Congregation of the Index by St. Pius V, other Roman Pontiffs, such as Gregory XIII (1572-1585), Sixtus V

(1585-1590), Clement VIII (1592-1605), Alexander VII (1655-1667), and Benedict XIV (1740-1758), published various ordinances to be observed by the Congregation of the Index in the censorship and prohibition of books. Coming down to our own times, a very important change was effected by the late Sovereign Pontiff Leo XIII in this matter. In many places the rules of the Index had been neglected: in others they were held to be no longer obligatory: everywhere it was found difficult to observe them exactly. Leo XIII judged that the time had arrived when regulations more in harmony with the age and better adapted to present conditions should be published instead of the rules which had previously existed. Accordingly, after consulting with the members of the S. Congregation of the Index, he published (25 January, 1897) the celebrated Constitution *Officiorum ac Munerum,* along with certain *Decreta Generalia.* All preceding decrees relative to the prohibition of books were annulled by the Roman Pontiff: the *Decreta Generalia* were substituted and declared strictly obligatory upon all the faithful. It may be of interest to note that soon after the publication of this Constitution containing the *Decreta Generalia* a question was proposed to the S. C. of the Index whether the Constitution *Officiorum*

ac Munerum was binding even in English-speaking countries: "Utrum dicta constitutio *Officiorum ac Munerum* vim obligatoriam habeat etiam pro regionibus brittanici idiomatis quas tacita dispensatione frui quidam arbitrantur." The answer of the S. C. of the Index (23 May, 1898) was *"Affirmative."* Since the date of this answer there has been no change in the ecclesiastical legislation upon the prohibition of books, so that the General Decrees published in 1897 are still in force throughout the Church. It may be said in general that these Decrees contain, first, rules for determining what writings should be considered forbidden,—books, pamphlets, newspapers, leaflets, etc., and secondly, rules regarding the censorship of such publications. In the Constitution *Officiorum ac Munerum* it is expressly stated that all other laws regarding prohibited books are abolished, and that the Congregation of the Index should be guided by these Decrees only except that in the censorship of books the Constitution of Benedict XIV, *Solicita ac provida,* should continue in force. The Congregation of the Index was commissioned to revise the Index of prohibited books, and in 1900 the new Index was published. It is hardly necessary to remark that this Index, or any new edition of it since 1900, does not contain a com-

plete list of all books forbidden to be read. There are many thousands of books not found in this Index, which, nevertheless, as being pernicious, the faithful are forbidden to read. The General Decrees, as has already been said, set down rules for determining what is forbidden. Hence if a person wishes to know whether it is permitted to him to read a particular book, he must, before arriving at an affirmative answer, ascertain two things: first, that the book is not found in the revised Index of prohibited books; secondly, that the book is not prohibited by any of the General Decrees. If it appears that the book is found in the Index as prohibited, this of itself suffices to show that the book cannot be conscientiously read without requisite permission. Even if the book be not named in the Index, it may still be prohibited as coming under one of the General Decrees. It does not appertain to our present purpose to explain in detail the various Decrees relating to the prohibition of books, periodicals, etc. Excellent commentaries on these Decrees may be found in modern treatises of Moral Theology and Canon Law, while some authors have written special volumes on the subject.

COMPETENCE OF THE CONGREGATION HERETOFORE

From what has already been said, it may be gathered, to some extent at least, what has been the province, or competence of the Congregation of the Index. It was to examine all the books that were brought before its notice for examination, and to condemn them if they were deserving of condemnation. It was likewise empowered to grant others faculties for just cause to read and retain books that are placed on the Index, or forbidden under some of the General Decrees. Permission, too, may be obtained from this Congregation that Catholic book-sellers be allowed under certain conditions to sell forbidden books. Both of these faculties are distinctly set forth in the *Decreta Generalia* already referred to, n. 24 and n. 46. In this latter number we read as follows: "Quicunque librorum venditores, praecipue qui Catholico nomine gloriantur, libros de obscenis ex professo tractantes neque vendant, neque commodent, neque retineant: ceteros prohibitos venalas non habeant, nisi a sacra Indicis Congregatione veniam per Ordinarium impetraverint, nec cuiquam vendant, nisi prudenter existimari possint ab emptori legitime peti." It follows therefore that Catholic book-

sellers are forbidden to sell, lend, or retain books professedly treating of obscene matters. In regard to other prohibited books, they cannot have them for sale, unless they have got permission from the Congregation of the Index through the Ordinary; nor can they sell them, unless they form a prudent judgment that such books are legitimately asked for. Whoever carefully reflects upon the grave evils arising from the reading of pernicious literature will agree with the justness of this legislation. On the other hand, there may be under certain circumstances sufficient reason for the Sovereign Pontiff to grant a dispensation to read and to sell what is forbidden: and the Congregation of the Index is appointed the judge to determine when such dispensation may be given, and is empowered to give it.

AUTHORITY OF THE CONGREGATION UNDER THE NEW CONSTITUTION

The authority conferred upon the Congregation of the Index under the Constitution *Sapienti consilio* is conveyed in two short paragraphs; or we may say with sufficient accuracy that one paragraph conveys it, inasmuch as the second paragraph does not relate to any powers possessed

by the Congregation of the Index, but contains directions to be observed by it and by another Congregation, viz. the Holy Office. The first paragraph is as follows: "For the future it shall be the province of this Sacred Congregation not only to examine diligently the books delated to it, to prohibit them if this would seem well, and to concede dispensations; but also officially to investigate in the best way available whether writings of any kind that should be condemned are being circulated; and to remind the Ordinaries how solemnly they are bound to condemn pernicious writings and to denounce them to the Holy See in conformity with the Constitution *Officiorum* of 25 January, 1897." In the former portion of the foregoing extract authority is conveyed to prohibit books and also to grant dispensations for the use of prohibited books. Here, therefore, no difference seems to exist between the province heretofore assigned to the Congregation and that assigned to it under the new Constitution. However, in the latter part of the extract, there is indicated a further right as well as duty devolving on this Congregation, viz. first, to investigate as far as possible whether writings deserving of condemnation are being circulated; secondly, that the Congregation should remind bishops of the obligation of calling attention to

such writings and of denouncing them to the Holy See. Thus there appears to be an additional authority conferred upon the Congregation of the Index beyond what it formerly possessed: and it is quite evident how important and far-reaching it is. Many books, periodicals, etc., "scripta cujuslibet generis," which are hurtful to faith or morals may be circulated among the faithful: concerning these publications the Congregation is to make inquiry. It may here be noted that according to one of the General Decrees in the Constitution *Officiorum* (n. 29), Ordinaries are appointed delegates of the Apostolic See for the purpose of proscribing noxious books or other writings published or circulated in their respective dioceses, as also of withdrawing such literature from the hands of the faithful. Those publications which require a more careful examination as well as those which in the judgment of the Ordinary should receive a decision of the supreme authority ought to be referred to the Holy See.

FACULTIES OF OUR BISHOPS REGARDING PROHIBITED BOOKS

It will be opportune here to refer briefly to the powers possessed by the Bishops of the United States regarding the use of prohibited books. The new Constitution, while declaring the authority of the Congregation of the Index to concede dispensations, says nothing about the authority of bishops in this particular. It is not, however, to be inferred that their authority of dispensing has ceased, or has in any respect been diminished. Under the Constitution *Officiorum,* all bishops are authorized to grant leave to individual subjects to read prohibited books in urgent cases, "pro singularibus libris atque in casibus tantum urgentibus, licentiam concedere valeant." It is worthy of notice that this faculty possessed by bishops and others who have quasi-episcopal jurisdiction is *jure ordinario,* and consequently may be delegated to others. Thus, for example, a bishop might delegate each pastor of his diocese to give leave to any laic of that diocese to read prohibited books *in casibus urgentibus.* This authority of delegating priests to grant permission to others to read prohibited books does not appear to be frequently exercised, perhaps on account of the danger of abuse

which might sometimes accompany the exercise of the power received from the bishops, or because the *casus urgentes* justifying its exercise are considered to be rare. However, the fact that the bishops have such powers of delegation seems to be indubitable.[1]

Besides the foregoing faculty common to all bishops in relation to their subjects, the Bishops of the United States have possessed special faculties from the Propaganda under Form I, Art. 21, and F. C. Art. 2. By the former of these faculties our bishops may not only read prohibited books, except those which are professedly obscene or against religion: they may also communicate the same faculty for a time to those priests whom they know to be "praecipue idoneos atque honestos." The other faculty, which is the same as given in Form T. Art. 29, empowers the bishops to communicate under certain restrictions even to laics permission to read prohibited books.[2] The faculties contained in these two formulae differ from the faculties given to bishops generally in the Constitution *Officiorum*. The former are more extensive, referring to all prohibited books except a few, and are not lim-

[1] Cf. Wernz, *Jus Decretalium*, vol. 3, n. 111, Nota 78; Vermeersch, *De Prohibitione et Censura Lib. Const., "Officiorum ac Munerum,"* p. 112.

[2] Cf. Putzer, *Apost. Facult.*, N. 157 and N. 184.

ited to urgent cases: the latter faculty is restricted to urgent cases, but, unlike the former, is possessed by bishops *jure ordinario.* The faculties which the Bishops of the United States have hitherto received from the Propaganda regarding prohibited books, will no longer be obtained from that Congregation but from the Congregation of the Index.

MODE OF PROCEDURE IN THE CONGREGATION

When a book is sent, e. g. by a bishop, to the Congregation to be examined, the Secretary of the Congregation, with the approval of the Cardinal-Prefect, or sometimes of the Pope himself, designates one of the Consultors of the Congregation, or occasionally some one else, to examine the book and report upon it. The examiner takes note of whatever points seem deserving of condemnation. Then there is held a meeting of the Consultors of the Congregation, at which the views of the writer and the observations of the examiners are considered. Afterward a report of the proceedings of this preparatory meeting is brought before a general meeting of the Congregation, when a sentence is pronounced upon the book: this sentence is conveyed to the Sovereign Pontiff for his approval. The

sentence or decision regarding the book may be *"dimittatur,"* which means that the book is not condemned, although no positive approval is thereby given to it. The term *"damnatur"* or *"prohibetur"* is employed when the decision is unfavorable to the book: sometimes the clause *"donec corrigatur"* is added, in which case publication of the condemnatory decree is suspended.

OBLIGATION OF SECRECY

The Congregation of the Index is bound to strict secrecy regarding its acts in the condemnation of books. The Cardinals who compose it, as also the Consultors and Officers, are bound by oath to observe this secrecy, so that they cannot reveal the name of the person who sent a particular book to be examined by the Congregation, or of the person employed to examine and report upon it. Here it is proper to observe that the Constitution, *Sapienti consilio,* lays down that the Congregation of the Index may communicate with the Congregation of the Holy Office in reference to prohibited books. " We decree that in future in all things and in those alone relating to the prohibition of books, the Fathers Cardinals, the Consultors, and the Officers of both Congregations may communicate with one

another, and that all of them in this matter shall be bound by the same secret."

In conclusion, it may be useful to note that the Congregation of the Index is not bound by any territorial limits in the exercise of its authority, so that whatever powers have been conferred upon it to condemn pernicious literature, and for just reasons to give permission to read prohibited books, extend throughout the Church, both in countries subject to the common law and in those subject to the Propaganda.

CHAPTER V

The Sacred Congregation of Rites: The Sacred Ceremonial Congregation: The Sacred Congregation for Extraordinary Ecclesiastical Affairs: The Sacred Congregation of Studies

In the preceding chapter we have discussed the sacred Congregation of the Index. It is proposed in the present chapter to deal with the Congregation of Rites and some other of the disciplinary and legislative departments mentioned in the *Sapienti consilio.*

ORIGINAL SCOPE

The original scope of this Congregation is best indicated in the words which the Sovereign Pontiff, Sixtus V, used on the occasion of its institution, and embodied in the Constitution *Immensa aeterni Dei,* by which he established fifteen Congregations to assist him in the government of the Church. Examining the document dated 22 January, 1587, as it appears in the *Bullarium*

Romanum, one perceives that there are two paragraphs devoted to the treatment of the Congregation of S. Rites under the title *Congregatio Quinta pro Sacris Ritibus et Coeremoniis.* In the first of these paragraphs the Sovereign Pontiff lays down that the Church taught by the Holy Ghost makes use of sacred rites and ceremonies in accordance with apostolic tradition, in the administration of the Sacraments, the divine office, and in the public worship of God and His Saints. He tells us that these rites and ceremonies contain much instruction for Christians as well as a profession of the true faith; that they commend the majesty of sacred things and elevate the minds of the faithful to the contemplation of the most sublime mysteries and inflame their hearts with the fire of devotion. Desiring to increase the piety of the faithful and to promote divine worship, he appoints a special Congregation to supervise these offices. In the next paragraph he declares that he selects five Cardinals, whose chief care is to be as follows: "Ut veteres ritus ubivis locorum, in omnibus Urbis, Orbisque Ecclesiis, etiam in Capella nostra Pontificia, in Missis, divinis Officiis, Sacramentorum administratione, ceterisque ad divinum cultum pertinentibus, a quibusvis personis diligenter observentur, coeremoniae si exoleverint, restituan-

tur, si depravatae fuerint, reformentur, libros de sacris ritibus, et coeremoniis, in primis Pontificale, Rituale, Coeremoniale, prout opus fuerit, reforment et emendent, Officia divina de Sanctis Patronis examinent, et Nobis prius consultis, concedant. Diligentem quoque curam adhibeant circa Sanctorum canonizationem, festorumque dierum celebritatem, ut omnia sibi, et recte, et ex Patrum traditione fiant, et ut Reges, et Principes, eorumque Oratores, aliaeque personae, etiam Ecclesiasticae, ad Urbem, Curiamque Romanamque venientes, pro Sedis Apostolicae dignitate, ac benignitate honorifice more majorum excipiantur cogitationem suscipiant, seduloque provideant. Controversias de praecedentia in processionibus, aut alibi, ceterasque in hujusmodi sacris ritibus, et coeremoniis incedentes difficultates cognoscant, summarie terminent, et componant."

From the foregoing extract it may be understood what duties were assigned to this Congregation, namely, to see that the ancient sacred rites should be everywhere observed in the celebration of the Mass, the administration of the Sacraments, and in everything else pertaining to divine worship; that the ceremonies, if neglected, be restored; if depraved, be corrected. The Congregation should amend books on the sacred

rites and ceremonies, especially the Pontifical, Ritual, and Ceremonial; it should examine the divine offices of the Saints and grant them after consulting with the Roman Pontiff. The Congregation was likewise required to give careful attention to questions relating to the canonization of Saints and the celebration of feast-days, as also to attend to the reception of Kings, Princes, and others coming to the Roman Court. It should summarily terminate and settle controversies concerning precedence in processions and other occasions, as well as solve difficulties incidental to sacred rites and ceremonies.

From this survey of the duties assigned to the Congregation of Sacred Rites and Ceremonies by its founder, two departments of work are apparent, viz., one liturgical, comprising rites and ceremonies in Mass, the Sacraments, Breviary, procession, etc.; the other, relating to the processes of canonization. It is noteworthy that this Congregation established by Sixtus V was soon after divided into two Congregations, one of which was called simply the Congregation of Rites, and the other was called the Congregation of Ceremonies, or the Ceremonial Congregation. Of this latter Congregation mention will be made in a subsequent part of this chapter, since under the Constitution *Sapienti consilio* it forms a Con-

gregation distinct from the Congregation of S. Rites.

SUBSEQUENT CHANGES

Within the first year of the present Pontificate an important change took place in relation to the Congregation of S. Rites. On 29 January, 1906, Pius X issued the *Motu proprio, Quae in Ecclesiae bonum,* by which the Congregation of Indulgences and Sacred Relics was united to the Congregation of S. Rites, and the Prefect of the former Congregation was made proprefect of the latter: "Decernimus et statuimus ut Congregatio Indulgentiis et SS. Reliquiis praeposita cum S. Rituum Congregatione in posterum tempus perpetuo conjungatur, salvis ex integro manentibus sui muneris, officialium et facultatum ratione et forma hucusque servatis." [1] The reason for the union of these two Congregations was, as the Pope declared, the affinity and similarity in object, spirit, duties, and method existing between them.

[1] Cf. *Anal. Eccl.,* 1904, p. 64.

THE CONGREGATION OF S. RITES UNDER THE "SAPIENTI CONSILIO"

When the Sovereign Pontiff determined upon a thorough reorganization of the entire Curia, it became necessary to make another change in the Congregation of S. Rites. The scope of the alteration is to be ascertained from the Constitution *Sapienti consilio.* Hitherto it belonged to the Congregation of S. Rites to take cognizance of and to settle questions of precedence in various ecclesiastical functions regarding individuals, Chapters, Religious Orders, etc. Such questions no longer remain within the competence of the Congregation of S. Rites, but are to be determined by the Congregation of the Council, or, when Religious are concerned, by the Congregation for Religious. When, however, these questions are to be settled by a judicial process, it does not belong to either of these Congregations, but to the Roman Rota to conduct proceedings and give a decision, while it remains the duty of these two Congregations respectively to determine whether a cause is to be settled by judicial process or in a disciplinary manner. Again, during the past five years since the union of the Congregation of Indulgences and S. Relics with the Congregation of S. Rites, it belonged

to these united Congregations to settle questions relating to Indulgences. But under the new Constitution the subject of Indulgences, not only as far as the doctrine is concerned, but also in relation to all questions concerning the use of Indulgences, pertains exclusively to the Congregation of the Holy Office. The Congregation of Indulgences and S. Rites has ceased to exist, one portion of its functions being now discharged by the Holy Office, the other by the Congregation of S. Rites. At present the province of the Congregation of S. Rites comprises three classes of business, the Liturgy, the Canonization of Saints, and S. Relics.

THE LITURGY

According to the Constitution *Sapienti consilio,* "This Sacred Congregation (Cong. of S. Rites) has the right of examining and decreeing all things which relate proximately to the sacred rites and ceremonies of the Latin Church." It is not concerned with the Oriental Rites, since, as has been seen in a previous chapter, there is united to the Congregation de Propaganda Fide a Congregation for the Affairs of the Oriental Rites, whose duty it is to attend to this branch of business. What questions should be consid-

ered as proximately relating to sacred rites and ceremonies in the Latin Church might seem indefinite and uncertain, but what is meant in particular is made clear by the following words of the Constitution: "It is therefore especially its province to watch over the diligent observance of the sacred ritual and ceremonial in the celebration of Mass, in the administration of the Sacraments, in the performance of the divine offices, in short over all that regards the worship of the Latin Church." In particular it belongs to this Congregation to exercise vigilance over all the liturgical books of the Latin Church, the Missal, Ritual, Breviary, etc., while however it must leave to the Holy Office the settlement of doctrinal questions.

In order that it might fulfill its duties with more benefit to the Church, the Sovereign Pontiff has conferred upon the Congregation of S. Rites various faculties. On 7 September, 1903, soon after his accession to the pontifical dignity, Pius X published a long list of these faculties. There were sixty-two in number, entitled *Facultates Extraordinariae,* which however, cannot be conceded without the approval of his Holiness. There were eighty other faculties called *Facultates Ordinariae,* conferred upon this Congre-

gation; these may be conceded without any special approval of the Pope. It is, however, deserving of notice that *some* of these faculties, ordinary and extraordinary, can no longer be granted by the Congregation of S. Rites since they come within the competence of another Congregation, either the Congregation on the Discipline of the Sacraments or the S. C. C. The reason of this limitation or curtailment of the powers of the Congregation of S. Rites is easily seen. It appertains under the new Constitution to the Congregation of the Sacraments to concede faculties having relation to the Sacraments, e. g. of reserving the Blessed Sacrament in churches and oratories not having this right, or of celebrating Mass in a private oratory, or on shipboard, or an hour before the aurora or after mid-day, of conferring Orders *extra tempora,* etc. On the other hand it now belongs to the Congregation of the Council to give faculties which formerly appertained to the Congregation of S. Rites, e. g. of commuting the divine office for seculars. It is well here to remark that the Holy See has, since the appearance of the *Sapienti consilio,* published *Normae peculiares,* in which are set down the faculties reserved to the Congregation of the Sacraments,[1] as also

[1] Cf. N. 10, *Acta Apostolicae Sedis,* vol. i, p. 86 ff.

faculties reserved to the S. C. C.[1] There is, however, a considerable number of faculties still within the exclusive competence of the C. S. R., as may be seen by comparing the catalogue conferred 7 September, 1903,[2] with the faculties just referred to as given to the two other Congregations.[3] If we subtract the latter from the former we have remaining the number of faculties appertaining solely to the Congregation of S. Rites.

THE RIGHT OF CANONIZATION

Previous to the institution of the Congregation of S. Rites in 1587 the work of making the necessary preparations for the canonization of a saint was performed by the College of Cardinals; since that date it has devolved upon the C. S. R. When it acts in this department, it is called the Extraordinary Congregation. It does not belong to this Congregation to issue the decree of canonization, since this belongs exclusively to the Sovereign Pontiff; nor does the Pope permit the act of beatification to be performed by this Congregation, because this too,

[1] Cf. N. 4 & 5, *A. Ap. S.*, vol. i, pp. 94, 95.
[2] Cf. *Anal. Eccles.*, vol. xii (1904), pp. 123-125.
[3] Cf. *A. Ap. Sed.*, l. c.

according to the present discipline of the Church, is always performed by the Pope alone. Still this Congregation has a vast amount of work in *preparing* for the acts of beatification and canonization. Careful investigation must be made concerning the practice of heroic sanctity on the part of the servant of God about whose beatification there is question, the miracles performed through his intercession, and in the case of a martyr, concerning the fact of martyrdom as well on the part of the tyrant who inflicted it as on the part of the person who suffered it. When these questions have been satisfactorily answered, another has to be discussed and decided, viz. whether beatification, or if the person has been already beatified, the canonization, can be proceeded with. Meetings of the Congregation have to be held for deliberation upon each of these questions. These meetings are of three kinds. There is first what is called the antipreparatory meeting, or Congregation, at which the Consultors deliberate under the presidency of the Cardinal relator. Then there is the preparatory Congregation at which the Cardinals and Consultors are present, only the latter, however, giving their vote. Besides, there is afterwards the *general* Congregation, which is attended by the Cardinals and Consultors in

the presence of the Sovereign Pontiff himself. At this meeting when the Consultors have given their vote (which on this occasion is done by them standing), they withdraw, and the Cardinals along with the Pope continue the meeting to conclude the deliberations.

THE VENERATION OF RELICS

Another branch of ecclesiastical business now under the direction of the Congregation of S. Rites is that which concerns Relics. There was a Congregation instituted by Clement IX under the Constitution *In ipsis* (6 July, 1669), and entitled the Congregation on Indulgences and Relics. As far as relics were concerned, the object of the Congregation was to correct and prevent abuses, as also to solve whatever difficulties might be proposed in the matter of sacred relics, with the provision that the Sovereign Pontiff should be consulted regarding the graver questions: "Romano Pontifice circa graviora difficilioraque consulto." It was to examine and authenticate relics recently found, as likewise to observe moderation in giving the relics of the Saints. If a question of dogma should arise in the discharge of its functions, it was to be transferred for solution to the Holy Office. All these func-

tions in relation to sacred relics are now performed by the Congregation of S. Rites, as is expressly declared in the *Normae peculiares* added to the Constitution *Sapienti consilio.*[1] It may be here remarked that all of the Decrees of the Congregation of Indulgences and Relics from the institution of the Congregation of Indulgences until 1882 were published by Pustet and that this collection was declared by the Holy See to be authentic.

AUTHORITY OF DECREES OF THE CONGREGATION OF S. RITES

When treating of the Congregation of the Holy Office, a rule was given for determining the authority of its disciplinary decrees. The same rule may be applied to the Congregation of S. Rites. Some of these decrees are manifestly directed to the entire Church—*Decreta Generalia.* These are obligatory upon all. There are others which are answers to particular questions under special circumstances; such are binding only upon those to whom they are directed. There is a third class of decrees, viz. those which are particular in form, but are indicative of a

[1] Cf. *A. Ap. Sed.*, vol. i. p. 100.

general law already existing. These decrees may be *extensive* interpretations of an existing law, and they require promulgation before they become obligatory. Other decrees of this third class may be *comprehensive* interpretations, i. e. included in the law still in force. If these be evidently so included, they are immediately obligatory upon all without special promulgation. But if the decree be an interpretation of a law about whose existence there has been a solid doubt, it is probable that such interpretation would require formal promulgation in order to produce an obligation, unless the interpretation be confirmed by several decisions, which confirmation would be equivalent to formal promulgation.

Respecting the decrees of the Congregation of S. Rites it is noteworthy that an authority was conferred upon them altogether peculiar to this Congregation. The following question was proposed: "An decreta a S. R. C. emanata et responsiones quaecunque ab ipsa propositis dubiis scripto formiter editae eandem habeant auctoritatem ac si immediate ab ipso S. Pontifice promanarent, quamvis nulla facta fuerit de iisdem relatio Sanctitati suae?" The response given by the Congregation of S. Rites (23 May, 1846) was *Affirmative*. The Roman Pontiff approved

this declaration on 17 July of the same year.[1] Hence the decrees of this Congregation were to be considered quite as binding as if they came from the Sovereign Pontiff immediately, although there was no reference made to him regarding them. It is certain that this privilege attached to the decrees of the Congregation of S. Rites continued until the Constitution *Sapienti consilio* came into effect, 3 November, 1908, because it was never withdrawn, and such is the common opinion of theologians.

Now, however, the decrees of this Congregation are placed upon the same footing as those of the other Congregations, viz. they require the approval of the Roman Pontiff. This seems evident from the words of the Constitution: "Sententiae quaevis, sive gratiae via, sive justitiae, pontificia approbatione indigent, exceptis iis pro quibus eorundem Officiorum, Tribunalium et Congregationum Moderatoribus speciales facultates tributae sint, exceptisque semper sententiis tribunalis sacrae Rotae et Signaturae Apostolicae de ipsorum competentia latis." No exceptions to the necessity of pontifical approval for the decisions of the Roman Curia are admitted but two. One of these relates to decisions made by the Rota and Apostolic Segnatura;

[1] Cf. *Decr. Auth.*, N. 2916, 3023.

the other refers to special faculties conferred upon the Moderators of the Offices, Tribunals, and Congregations. As these are the only exceptions mentioned in the Constitution, we are not warranted in admitting any other, for if there were any special exception to be made in favor of the decrees of the Congregation of Rites, this would be the place to name it. If it be objected that an authority of privilege granted by a Sovereign Pontiff is not to be considered as taken away by a general statement of this kind made by his successor, the answer is given in the words with which the Constitution concludes, "Non obstantibus" etc.[1] Since, therefore, there is no other exception to be admitted but the two just cited, it follows that the privilege formerly possessed by the Congregation of S. Rites exists no longer, so that the same kind of pontifical approval is now required for its decrees as for those of the other Congregations.

FACULTIES FOR GRANTING DISPENSATIONS AND INSIGNIA

While the Congregation of S. Rites is required to watch over the liturgy of the Church and see that the rites and ceremonies prescribed for Mass,

[1] Cf. Const.

the administration of the Sacraments, and other sacred functions, are carefully observed, it possesses authority to grant dispensations for legitimate reasons. It has likewise power to confer insignia, personal as well as local, temporary or permanent. Each of these faculties can be exercised only within the sphere of business assigned to the Congregation; and in some cases previous permission of the Roman Pontiff must be obtained. It is proper here to add that the jurisdiction of this Congregation has no territorial limits and accordingly extends to countries subject to the Propaganda.

COMMISSIONS SUBSIDIARY TO THE CONGREGATION OF S. RITES

One of the enactments concerning the Congregation of S. Rites is that to it are united three Commissions, the Liturgical Commission, the Historico-Liturgical Commission, and the Commission for Sacred Music. There are some Commissions appointed by the Sovereign Pontiff which are independent of any of the Roman Congregations, such as the Commission for promoting the study of Sacred Scripture, and the Commission for the Preservation of the Faith in the City of Rome; while there are others

which are connected with one of these Congregations. Of the three Commissions just named as united to the Congregation of S. Rites, the Liturgical Commission and the Historico-Liturgical Commission were instituted by Leo XIII; the Commission for Sacred Music was instituted by the present Sovereign Pontiff.

DECREES OF THE CONGREGATION OF S. RITES—WHERE TO BE FOUND

In concluding this sketch of the Congregation of S. Rites it may be opportune to notice that its decrees were published in three volumes, beginning with 1588, the year after the institution of the Congregation, and reaching to the close of the year 1899. Previous collections of its decrees had been issued by Gardellini and others, but the *Decreta Authentica* in these three volumes were approved by Leo XIII, who ordered that the decrees hitherto published so far as they differed from the *Decreta Authentica* were to be considered abrogated, except those only which possessed the nature of an indult or privilege for particular countries. In the first of the three volumes we have the decrees issued from 1588 to 1705 (N. 1-2162). The second volume contains the decrees from 1706 to 1870 (N. 2163-

3232) and the third volume contains the decrees from 1871 to 1899 (N. 3232-4051). Under the same title, *Decreta Authentica,* there are two other volumes published (fourth and fifth). The former consists of a Commentary on the Forty Hours' Devotion along with *Suffragia* and *Adnotationes* upon various decrees of the Congregation; the latter (fifth volume) is a general index of all the decrees issued by the Congregation. In the present year 1912, a sixth volume has been published, containing the Decrees from 1900 to 1911 (N. 4052-4284).

The Ceremonial Congregation

This Congregation is a branch of the *Congregatio pro Sacris Ritibus et Coeremoniis,* instituted by Sixtus V in 1588. From the Constitution, *Immensa,* quoted in treating of the Congregation of S. Rites, some of the objects to be attained were, "Ut veteres ritus sacri . . . in Capella nostra Pontificia . . . diligenter observentur, coeremoniae si exoleverint, restituantur . . . Ut Reges, et Principes, eorumque Oratores, aliaeque personae, etiam Ecclesiasticae, ad Urbem, Curiamque Romanam venientes, pro Sedis Apostolicae dignitate, ac benignitate honorifice more majorum excipiantur."

ITS SCOPE

Soon after the institution of the Congregation for Sacred Rites and Ceremonies, it was deemed expedient to establish for the purposes just cited a special Congregation, viz. the *Congregatio Coeremonialis.* Accordingly it appertained to this Congregation to see that in the Pontifical Chapel the ancient sacred rites be carefully observed and that the ceremonies so far as they might have fallen into disuse should be restored. Besides, the Congregation should take care that personages of rank, whether of the laity or clergy, coming to Rome should be duly received; for which purpose rules were adopted regarding the manner in which Kings, Princes, Legates, etc. should be presented to the Sovereign Pontiff; and the Secretary of the Congregation or his substitute should conduct the ceremonies at such receptions. This Congregation should also regulate the ceremonies of the sacred functions to be performed by Cardinals outside the Pontifical Court. When the insignia of the cardinalitial dignity are to be conferred upon persons living outside Rome, it belongs to the Ceremonial Congregation through its Secretary to give the necessary instruction to those who are selected to convey and deliver these insignia. The Secre-

tary should also communicate to the newly-created cardinals certain observances to be carried out in the functions of their office. When there is question of precedence among the cardinals themselves, or among ambassadors who may be sent by civil governments to the Holy See, it belongs to this Congregation to take cognizance of it.

Such has been for many years the scope of the functions appertaining to the Ceremonial Congregation; nor is there any change herein under the Constitution *Sapienti consilio,* which expressly states that "this Sacred Congregation retains all the rights hitherto attributed to it." Like the Congregation of S. Rites, it has no territorial limits in its jurisdiction, although, from what has been said, the chief place for the exercise of its authority is the Court of the Sovereign Pontiff.

The Congregation for Extraordinary Ecclesiastical Affairs

This Congregation may be said to have existed a little over a century. In 1793 Pius VI instituted a Congregation for the Ecclesiastical Affairs of France. In 1805 his successor, Pius VII, extended its sphere of action beyond

France and called it the Congregation for Extraordinary Ecclesiastical Affairs; however, on account of the exile of this Pontiff, the Congregation was inactive from 1809 until 1814, when the same Pope re-established it under the title, *Congregatio extraordinaria praeposita negotiis ecclesiasticis Orbis Catholici.* The name it has retained under the new Constitution, *Sapienti consilio,* is *Congregatio pro Negotiis Ecclesiasticis Extraordinariis.*

ITS SCOPE HERETOFORE

At the date of the publication of the new Constitution on the Curia (29 June, 1908) this Congregation had under its jurisdiction Russia and the States of South America, but when the Constitution came into effect, 3 November, 1908, these countries were transferred to the jurisdiction of the Propaganda Congregation. Indeed, all places which are not governed by the Propaganda, or by the other Congregations according to the common law of the Church, were considered as being under the direction of the Congregation of Extraordinary Ecclesiastical Affairs, which discharged its functions much in the same manner as the Congregation of Propaganda did for the

countries under its authority. But besides this ordinary business, it belonged to the Congregation for Extraordinary Ecclesiastical Affairs to assume whatever special work might be assigned to it by the Sovereign Pontiff, whether this work might properly come under the functions of some other Congregation or not.

ITS PRESENT SCOPE

It is distinctly laid down in the new Constitution that this Congregation "concerns itself only with those matters which are submitted to its examination by the Supreme Pontiff through the Cardinal Secretary of State." It has therefore a peculiarity by which it is distinguished from the other Congregations, viz. that it has no definite subject-matter of jurisdiction except what may be assigned to it by the Supreme Pontiff for a particular occasion; and this matter is communicated to it through the Cardinal Secretary of State. The kind of business, as the Constitution declares, to be dealt with by this Congregation will generally relate to civil laws and to the pacts to be entered into between the Holy See and the different States. Another peculiarity of this Congregation is that it has no prefect, properly so called. If any one examines the lists of mem-

bers for the various Congregations as given in the new *Acta Apostolicae Sedis* (vol. i, N. 1, pp. 109-129), he will find that each one of these, except the Congregation for Extraordinary Ecclesiastical Affairs, has a prefect, either the Sovereign Pontiff, as in the Congregation of the Holy Office and in the Consistorial Congregation, or some cardinal, as in each of the other Congregations. Indeed it was expressly stated in the new Constitution, *Sapienti consilio,* under the heading, *Congregatio de Disciplina Sacramentorum,* that this Congregation and the others that would follow should each have a cardinal prefect. It might, therefore, be expected that one of the cardinals should be appointed as prefect of this Congregation. However, in the *Normae peculiares*[1] it is set down that the nature and constitution of this Congregation, as well as the manner of transacting business, remain unchanged. Hence it may be inferred that as heretofore there will be no prefect named, but that the Cardinal Secretary of State will perform the duties of prefect and preside over the deliberations of this Congregation.

[1] Cf. *A. Apost. Sed.,* vol. i, p. 100.

The Congregation of Studies

One of the fifteen Congregations instituted by Sixtus V in the Constitution *Immensa* was entitled *Pro Universitate Studii Romani,* consisting of five cardinals. This Congregation was put in supreme charge of the Roman University and was authorized to summon from any part of the world eminent professors in theology, jurisprudence and the liberal arts to become the teachers of its students. This Congregation was also required to exercise supervision over Colleges of the Greeks, Maronites, and Neophytes, already established in Rome and supported by the liberality of the Roman Pontiffs. The sphere of work assigned to this Congregation was wider still. In the Constitution just referred to, Sixtus recalls the fact that the Apostolic See fostered education in the most celebrated universities, in Paris, Oxford, Bologna, and Salamanca; and then adds that he now commits to the care of this new Congregation the same universities and all other Catholic universities. The manner in which the Pope refers to Oxford, which at the time was fallen away from the Church, is truly pathetic. "Nec ipsam Oxoniensem, quantum in nobis est, deserentes, sed ex intimo animi affectu ad matris gremium,

et ad viam salutis revocantes, omnesque intimo cordis affectu et summa benevolentia prosequentes, ac sub nostra et beati Petri Apostolorum Principis protectione iterum suscipientes," etc. It need hardly be said that Oxford University did not correspond with the beneficent designs of the Holy See.

In 1824, Leo XII in the Constitution *Quod divina sapientia* appointed a Congregation of Studies to superintend the universities and schools, both public and private in Rome and throughout the Pontifical States. When Pius IX was despoiled of his possessions in 1870, this Congregation was prevented from exercising control over the seats of learning in the papal dominions. It was then that the Congregation of Studies was recalled to its original scope and received supreme control of all the Catholic universities in the world.

CONGREGATION OF STUDIES UNDER THE NEW CONSTITUTION

The authority of the Congregation of Studies is readily ascertained from the words of the new Constitution. "To this Sacred Congregation is committed the regulation of the studies which are to be gone through in the major athenæums

known as Universities or Faculties, which depend on the authority of the Church, including those which are administered by the members of religious societies. It examines and approves new institutions; it grants the faculty for conferring academic degrees, and may confer them itself in the case of men distinguished for special learning." Besides, it belongs to the province of this Congregation to found new universities and faculties; to make the changes of greater moment in those already founded; to take cognizance of grave questions relating to the administration of funds, the appointment of the chief officials, the course of studies, etc. Furthermore, it is set down in the *Normae Peculiares*[1] that whenever a new university or faculty is to be established, this is to be done by Brief, nor can any important change in the university or faculty be otherwise introduced.

[1] Cf. *A. Apost. Sed.*, vol. i, p. 100.

CHAPTER VI

The Sacred Penitentiary

In the introduction to this volume it was stated that there were three departments in the Roman Curia, viz., the Congregations, the Tribunals, and the Offices. We have considered the Congregations in as far as they have been reorganized under the Constitution *Sapienti consilio,* and we have seen what are the chief functions assigned to each Congregation. In the present chapter I propose to deal with the second department of the Curia, which comprises three Tribunals, the *Sacred Penitentiary,* the *Sacred Rota,* and the *Apostolic Segnatura.* I follow the order observed in the new Constitution.

ORIGIN OF THE S. PENITENTIARY

At a very early date a priest was appointed in the Eastern Church, and somewhat later, one in the Western Church, who receive special author-

ity in the sacrament of Penance (*Penitentiarius*), and who was placed over those obliged to perform public penances. In the beginning of the thirteenth century there were special *penitentiarii* appointed for the City of Rome, one of them being St. Raymund of Pennafort. In the same century a cardinal was selected to direct those *penitentiarii* and to take charge of the Apostolic Penitentiary. Somewhat later, viz., in the beginning of the fourteenth century, the cardinal who was appointed Prefect received the title of *Penitentiarius major,* a title which has continued down to the present day in the possession of the Chief Officer of the Tribunal. Originally the Sacred Penitentiary took cognizance of questions of the *forum internum* alone; but during a considerable portion of the fifteenth century a controversy was carried on regarding the proper province of its functions, some contending that it was to be confined to the *forum internum,* others defending its competence to deal with the *forum externum* also. Accordingly a Constitution, *Quoniam nonnulli,* was issued by Sixtus IV, 9 May, 1484, declaring that the Apostolic Penitentiary possessed authority to settle questions of the *forum externum* and could delegate this authority to others. Upon this point according to different circumstances a diversity of discipline

has existed. Thus we find that nearly a century later St. Pius V in order to obviate certain inconveniences, ordained in two Constitutions issued together, 18 May, 1567, *In omnibus* and *Ut bonis,* that the Apostolic Penitentiary should be altogether limited to the *forum internum.* However, during the reign of this Sovereign Pontiff a modification was introduced and was afterwards confirmed by other Roman Pontiffs, such as Urban VIII and Innocent XII.

LEGISLATION OF BENEDICT XIV ON THE S. PENITENTIARY

Finally, Benedict XIV issued two Constitutions of the same date, 13 April, 1744, *Pastor bonus* and *In Apostolicae.* When one examines these two documents as they are found in the Bullarium of Benedict XIV, he perceives that in the former (*Pastor bonus*) the Pontiff ordained with much minuteness of detail the faculties committed to the S. Penitentiary; while in the other (*In Apostolicae*) he laid down the various classes of offices for the Tribunal as well as the requirements for the incumbents of these several offices. When it is remembered that the enactments contained in these two constitutions have remained substantially in force until the

legislation of the *Sapienti consilio* became effective in November, 1908, and that even now to a large extent the same faculties are continued, as well as the same classes of offices, it may be easily inferred that these documents are deserving of careful perusal. Yet, as they are of notable length, we can refer here to only a few general headings, and this with a view to a better understanding of the new legislation of our present Sovereign Pontiff.

By the Constitution, *Pastor bonus,* Benedict XIV conferred authority upon the Sacred Penitentiary to absolve from all sins and censures in whatsoever manner reserved, whether to the Roman Pontiff, or to the Ordinaries, or to the Superiors of Regulars. This power should be exercised by the Major Penitentiary or by some one delegated by him in favor of regulars or seculars, ecclesiastics or laics. There was, however, a distinction made, viz., that in the case of regulars the absolution given through this Tribunal was effectual not only for the forum of conscience, but likewise in *foro externo.* The same authority was also available for seculars, whether ecclesiastics or laics, in *foro externo,* when the censures were inflicted *a jure;* not, however, when inflicted *ab homine,* until the jurisdiction of the delegate or judge inflicting the censure had

ceased.[1] The S. Penitentiary besides received authority to dispense in occult irregularities for the forum of conscience not only laics, but also clerics, both secular and regular (N. 15). It possessed the authority to validate the titles of benefices obtained with an occult inhability; the power of condoning a portion of the simoniacal price given for a benefice; it received certain faculties of remitting the obligation of restitution under particular conditions; relaxing the obligation of oaths in the forum of conscience, when no injury would arise therefrom; dispensing by commutation from vows, even those reserved to the Pope; dispensing from the obligation of reciting the Divine Office by commuting it into some other prayers.[2] Power was given to the S. Penitentiary of dispensing regulars from any irregularity, whether *ex delicto* or *ex defectu,* in the forum of conscience; even in *foro externo* for public cases, after consultation with the superiors; authority of absolving apostate or fugitive regulars under certain conditions was also conferred.[3] In Matrimony the S. Penitentiary could dispense with occult impedient impediments for the forum of conscience; but not

[1] Cf. *Pastor Bonus,* N. 7.
[2] NN. 31, 32, 33.
[3] NN. 20, 23, 25, 28, 29, 30.

from diriment impediments of consanguinity, affinity, or spiritual relationship, even when the impediment was occult, if there were question of a marriage to be contracted (*contrahendum*). In marriages already contracted (invalidly), the S. Penitentiary should abstain from dispensing in the first and second degrees of consanguinity (mixed), or in the second only of consanguinity, or affinity from *copula licita,* even in occult cases; but in the third and fourth degrees (occult) for marriages invalidly contracted it might dispense. It could dispense from the impediment of *crimen* arising out of adultery. It also possessed authority to solve all doubts in the matter of sins or regarding the penitential forum. It was declared, too, by Benedict XIV that whenever the S. Penitentiary would exercise any authority in granting dispensations, absolutions, etc., for the *forum externum,* such exercise should be considered valid, since the Major Penitentiary ought to be held as having received from the Roman Pontiff the requisite jurisdiction in particular cases.[1]

Since the time of Benedict XIV, until the Constitution *Sapienti consilio* became effective, the Apostolic Penitentary lost none of its faculties; rather they were increased, especially in

[1] NN. 39, 40, 44, 48.

regard to the power of granting matrimonial dispensations. At one period, namely, at the end of the eighteenth century when the French Revolution broke out, the S. Penitentiary was the chief organ through which dispensations in matrimony were procured, even in *foro externo,* the other Tribunal (Dataria) being impeded in the exercise of its functions.

FACULTIES ACCORDING TO THE NEW CONSTITUTION

In order to understand the change effected in the authority of the Sacred Penitentiary by the Constitution *Sapienti consilio* it is well to quote the words in which its present authority is conveyed. "The jurisdiction of this sacred court or tribunal is limited entirely to those things which regard the *forum internum,* non-sacramental as well as sacramental. Hence, matrimonial dispensations of the *forum externum* being assigned to the Congregation for the Discipline of the Sacraments, this tribunal for the *forum internum* concedes favors, absolutions, dispensations, commutations, sanations, condonations; moreover, it examines questions of conscience and decides them."

The foregoing are the only words found in the New Constitution regarding the Sacred

Penitentiary; they are, however, sufficient to enable one to perceive the difference between the new legislation and the legislation already existing. The competence of the Sacred Penitentiary is now brought back to the condition in which it was placed by St. Pius V; it may be even said that at present its scope is the same as when this tribunal was originally constituted. The S. Penitentiary is now confined to the *forum internum*, and therefore no longer possesses any jurisdiction in the *forum externum*. To many this distinction between the *forum internum* and the *forum externum* is very well known; still it may not be amiss for a more correct understanding of the competence of the S. Penitentiary to say a few words concerning the meaning of this old distinction.

There is a twofold power existing in the Church: there is the power of the Sacrament of Orders, and there is the power of jurisdiction. This latter power relates to two different kinds of questions. There are some causes which refer chiefly to the private benefit of the individual, and the jurisdiction or authority required to deal with them is termed jurisdiction of the *forum internum*, or of the forum of conscience. This jurisdiction may be immediately connected with the Sacrament of Penance and is called sacra-

mental. Thus the jurisdiction necessary for the absolution from sin is sacramental; and even when the Sacrament of Penance is not actually received, provided that there be confession, the term sacramental jurisdiction in *foro interno* is employed. But jurisdiction in *foro interno* may also be exercised outside the administration of the Sacrament of Penance, and even without any confession; it is then called non-sacramental. For instance, the act of dispensing from a private vow, or of dispensing from a secret irregularity, or of absolving from a secret censure may be performed without reference to Confession or the Sacrament of Penance, and yet be an act of jurisdiction in *foro interno.*

Then there are other causes which proximately relate to the social good of the Church; they regard the relation of the individual to ecclesiastical society. The authority necessary to deal with these causes is called jurisdiction in *foro externo.* Thus if two persons wishing to be married are related by consanguinity within the prohibited degrees, there is required the exercise of jurisdiction in *foro externo* for the granting of the dispensation. Now the radical difference touching the S. Penitentiary between the new legislation and that immediately preceding is that all jurisdiction in *foro externo* is

now taken from it. The chief practical application of this change will be found in matrimonial dispensations. Heretofore the Dataria was the customary channel through which dispensations from matrimonial impediments were granted for those countries not subject to the authority of the Propaganda. But it was not the only channel; the S. Penitentiary was empowered to grant dispensations from diriment impediments, even when these impediments were not occult. I do not mean to say that there was no limitation placed upon the S. Penitentiary in its authority to dispense from matrimonial impediments, or that it possessed regularly equal authority with the Dataria in granting matrimonial dispensations. It has been the general rule for a hundred years that when the applicants for the matrimonial dispensations were such as could be designated *pauperes* or *fere pauperes,* the dispensations could be obtained from the S. Penitentiary, even though the impediments in the given cases were of their own nature public; while the Dataria was competent to grant matrimonial dispensations in *foro externo,* whether the application came from those who were *pauperes* or not. The main distinction between these two tribunals has been that the Dataria granted dispensations in

utroque foro, and the S. Penitentiary in *foro interno.* Accordingly, when the impediment was public, either from its own nature, as consanguinity, although it was not commonly known to exist, or when it was foreseen to become public, or when it was actually public, though of its own nature secret, in each of these suppositions the Dataria was the proper tribunal for granting the dispensation. On the other hand, the S. Penitentiary having authority for the *forum internum* could grant a dispensation when the impediment was of its own nature occult and at the same time *de facto* occult, but as was said above, it acquired additional authority to dispense in *utroque foro* those petitioners who could be considered at least *fere pauperes.*

It was noticed before when treating of the Congregation of the Sacraments, that according to the new legislation this Congregation possesses authority to grant matrimonial dispensations instead of the Dataria which is no longer competent to grant them. Thus the Congregation of the Sacraments is empowered to take the place of the Dataria for dispensations in matrimony. It is however to be noted that when there is question of the impediment of *disparitas cultus,* or of *mixta religio,* or the application of the Pauline Privilege, it is the Congregation of

the Holy Office which is competent, since matters of this kind pertain to doctrine and therefore belong exclusively to this Congregation. The S. Penitentiary according to the new legislation possesses no authority to dispense in *foro externo*, so that when an impediment of matrimony is of its nature public, or, though secret at present, is likely to become public, it is useless to have recourse to the S. Penitentiary, which is no longer competent in such cases; reference must be made to the Congregation of the Sacraments or, when a dogmatic question is involved, to the Holy Office. It is not however to be inferred that the S. Penitentiary is now deprived of all authority in the matter of matrimonial dispensations. Whatever authority of jurisdiction it hitherto possessed in *foro interno* to grant these dispensations, it retains the same authority under the new legislation. When the impediment is of of its nature occult and at the same time actually secret without danger of becoming public, this tribunal has authority to dispense. Thus if A. have illicit copula with B., there rises a diriment impediment to the marriage of A. and the sister of B. which impediment is considered *ex natura sua* occult, and if there be no danger of this impediment becoming public *de facto*, the S. Penitentiary

is still the competent tribunal for granting the dispensation. It is scarcely necessary to observe that in sending a petition for such a dispensation to the S. Penitentiary fictitious names should be employed, so that no infamy may arise to any of the parties concerned from the granting of the dispensation. If from any cause it should become publicly known that such illicit copula occurred, the S. Penitentiary would not be competent to grant the dispensation; the case should be referred to the Congregation of the Sacraments. What has been said of the impediment of affinity from illicit copula should be extended to the impediment of *crimen*, in which under similar conditions the S. Penitentiary can dispense. Regarding other ecclesiastical impediments which from their character are public, such as consanguinity, spiritual relationship, or affinity from licit copula, a dispensation can no longer be procured from the S. Penitentiary, no matter what be the circumstances of the applicants.

Whether or not the S. Penitentiary still retains authority to dispense when there is question of a marriage invalidly contracted on account of an impediment of its nature public, while *de facto* occult, e. g. spiritual relationship which is secret, the present writer prefers to

refrain from offering an opinion, until the question be decided by a declaration of the Holy See. It is certain that the S. Penitentiary was competent in such cases, but whether these are to be held as belonging to the *forum externum* and therefore outside the province of the S. Penitentiary as now constituted is not evident. It appertains to the Consistorial Congregation alone to give an authoritative decision upon this question.

In matrimonial cases it may happen that two impediments occur, one occult, the other public. In this contingency a rule similar to what was formerly followed should still be observed, viz. application should be made to the S. Penitentiary for a dispensation from the occult impediment with mention that a petition has been or is to be sent to the Congregation of the Sacraments for a dispensation from the public impediment; while in the petition to the Congregation of the Sacraments for a dispensation from the public impediment no allusion is to be made to the presence of an occult impediment. If however the two impediments (one occult, the other public) be of such a character that on account of the presence of one the dispensation for the other would not be rendered more difficult, it is held to be unnecessary to make reference to the

existence of the second impediment in the petition to the S. Penitentiary.[1] Others, e. g. De Becker,[2] and Noldin (N. 133) omit the distinction between impediments *disparata* and *non-disparata,* laying down the rule just given, viz. that mention should be made of the public impediment in the petition addressed to the S. Penitentiary.

"NORMAE PECULIARES" CONCERNING THE S. PENITENTIARY

After the publication of the Constitution *Sapienti consilio,* the Holy See issued certain regulations referring to the departments of the Curia. A few of these relate to the S. Penitentiary and should be here noticed. One touching the personnel of this tribunal sets down that, besides the Cardinal Penitentiary who is the Prefect of the tribunal, the Regent, five Prelates of the Segnatura, a Procurator, a Substitute and some inferior officials shall continue in the respective duties assigned them under the previous arrangement. These different offices were created for the proper management of this tribunal by Benedict XIV in his Constitution *In Apostolicae,* above referred to. A second

1 Cf. S. Alph. N. 1139.
2 2nd. ed. p. 341.

regulation of the *Normae* lays down that all the rules given in that Constitution of Benedict XIV are to be observed by the S. Penitentiary except in those particulars which were subsequently introduced by legitimate use; and changes so introduced are to be in writing and to be submitted by the Cardinal Penitentiary for the approval of the Roman Pontiff. The only remaining regulation of the *Normae peculiares* concerning the S. Penitentiary is that all business transacted by this tribunal should be conducted secretly and gratuitously.[1] When however dispensations in matrimony are required from the S. Penitentiary the taxes which were hitherto imposed will for the present be continued, since one of the *Dispositiones temporariae* (N. 12) is the following: "Pro dispensationibus Matrimonii vigere quoque pergent in praesens taxationes pendi solitae penes Datariam Apostolicam et S. Penitentiariam. In causis vero matrimonialibus dispensationis super rato, et in aliis quae a S. Congregatione de Sacramentis judicantur, standum normis a S. Congregatione Concilii hucusque servatis." [2]

It is unnecessary to explain in detail more than is set forth in the Constitution already

[1] Cf. *Acta Apostolicae Sedis*, vol. 1, pp. 101-102.

[2] *A. Ap. Sed.*, vol. 1, p. 57.

quoted, the various powers conferred upon the S. Penitentiary. It should be noticed however that many of these may be subdelegated to Bishops and in some degree to priests also. In this respect no change has been effected in the authority of this tribunal to subdelegate its faculties, keeping within the province assigned to it. *Pagellae* have sometimes been issued by the S. Penitentiary to Bishops, and to some priests on the recommendation of their respective Ordinaries. In the interpretation of such faculties attention should be paid to particular clauses which may be found in the formulas issued by this tribunal in order that the extent of the faculties may be accurately ascertained without either undue amplification or undue limitation.

In conclusion it may be observed that it belongs to the S. Penitentiary to examine cases of conscience and to decide them. Thus a practical question may arise as to what is lawful or unlawful in given circumstances. The person concerned may send a *quaesitum* to this tribunal and from the answer determine the course of conduct he should pursue. In presenting such *quaesita* it is not necessary to express the real name of the petitioner, but of course the address to which the answer is to be directed is to be given. In order to expedite matters through

this Tribunal it is advisable to have the *quaesita* authenticated by the Ordinary of the petitioner, whenever the latter has no sufficient reason to conceal from him the fact of his *quaesitum*.

CHAPTER VII

The Sacred Roman Rota

From early times the Roman Pontiff was accustomed to appoint chaplains whom he commissioned to examine certain causes. At first these chaplains were wont by *hearing* evidence to take informations and then to make a report to the Sovereign Pontiff, who would himself give the decision. For this reason they were called *Auditores,* not being yet empowered to decide cases. When afterwards they received additional authority to enable them to give judgment, the former name or title (*Auditores*) was retained.

Why the term *Rota* was employed to designate this Tribunal has been the subject of controversy. The most probable opinion appears to be that a revolving stand (*Rota*) was used, on which were kept legal documents frequently consulted by the *Auditores.* Another opinion is that this Tribunal was so called because the judges were accustomed to sit at a *round* table;

some, too, thought that the name was given because the judges delivered their opinions in *rotation.*

These judges constituted a college and were called *Auditores causarum sacri palatii apostolici.* Nicholas IV (1288-1292) appointed some judges to take charge of civil suits for the Papal dominions; Clement V (1305-1314) instituted an independent court for ecclesiastical cases. These two courts were afterwards merged into one. John XXII in his Constitution, *Ratio juris* (1331), issued certain ordinances, regulating the rights of Auditors of the Rota and prescribing the form of oath to be taken by them. At one time there were as many as twenty Auditors of the Rota, but the number was fixed at twelve by Sixtus IV in 1472. The head of the Rotal College was called the Dean, whose duty it was to preside at general meetings and to exercise supervision over the other officials of the institution.

FORMER COMPETENCE OF THE ROTA

This Tribunal at first took cognizance of only those cases which by special commission of the Sovereign Pontiff were assigned to it. Afterwards two classes of cases became the customary

matter of its jurisdiction, viz. litigious cases of a spiritual character, such as benefices, and civil cases arising within the Pontifical Territory. At no time was it usual for this Tribunal to be occupied with criminal proceedings. After the institution of the Roman Congregations, the labors of the Sacred Rota, which had reached their climax in the fifteenth century, began to diminish notably. The chief reason for this diminution of its functions was that the Roman Congregations acquired authority to decide questions upon matters which had previously belonged to the competence of the Rota. Then, since 1870, when the Roman Pontiff was robbed of all his temporal possessions, there were no longer any purely civil cases to be tried by this tribunal. Hence in recent times the *Auditores* of the Rota, since they no longer had their former work to perform, were assigned to other employment; in particular, they have assisted the S. Congregation of Rites, being made judges of validity in the apostolic processes of canonization and beatification.

PRESENT POSITION OF THE ROTA

We shall best understand the changes effected in the Sacred Roman Rota by a study of the

words of the new Constitution, *Sapienti consilio,* indicating those changes. "As the Tribunal of the Sacred Roman Rota, which in former times was an object of universal praise, has in these times through various causes almost ceased to judge, the result has been that the Sacred Congregations have been burdened excessively with forensic cases. To meet this evil, following the lines laid down by our predecessors, Sixtus V, Innocent XII, and Pius VI, we not only ordain 'that for the future contentious cases, civil as well as criminal, requiring judicial procedure with trial and proofs, shall not be received or taken cognizance of by the Sacred Congregations';[1] but we moreover decree that all contentious cases, not major ones, which are treated in the Roman Curia, shall for the future devolve to the Tribunal of the Sacred Rota, which we do by these Letters again call into exercise according to the *Special Law* which we place in the appendix of the present Constitution, without prejudice, however, to the rights of the Sacred Congregations as above set forth."

In the foregoing words the Sovereign Pontiff alludes to the cause of the new legislation regarding the Roman Rota. The Sacred Congregations, as distinct from the other departments of

[1] Letter of the Secretariate of State, 17 April, 1728.

the Roman Curia, were overcrowded with business, owing to their treating many cases in forensic manner. Various Pontiffs endeavored to remedy this inconvenience: especially, Sixtus V (1585-1590), Innocent XII (1691-1700), and Pius VI (1775-1779). Now the present Sovereign Pontiff, Pius X, makes two definite enactments, the one prohibitive, the other affirmative. The Roman Congregations are no longer permitted to try any cases according to judicial process, whether civil or criminal. The affirmative enactment is that all contentious cases which are not *major* and which are to be treated according to judicial process in the Roman Curia, belong exclusively to the tribunal of the Sacred Roman Rota. Besides, the Roman Pontiff lays down that this tribunal of the Rota is to be regulated by certain statutes which are termed *Lex Propria,* Special Law, published as an appendix to the Constitution *Sapienti consilio.*

LEX PROPRIA

The *Lex Propria,* to which allusion is here made, consists, so far as relates to the Rota, of three chapters, treating respectively of the constitution, competence, and mode of procedure. We shall give here a brief summary of the

enactments contained in these chapters, leaving the reader to study for himself the text as published in the *Acta Apostolicae Sedis* (20-29).

THE CONSTITUTION OF THE NEW ROTA

According to the new legislation there are ten Auditors of the Rota. As in former times the president of the College of the Rota was called the Dean, so in the new re-organization the same title is applied to him. All the Auditors are appointed by the Roman Pontiff: they must be priests who have obtained the Doctorate in Theology and in Canon Law. When they have reached the age of 75, they discontinue their office. The Auditors of the Rota sit after the Dean in the order of their nomination: if several were nominated to the Auditorship at the same time, the Auditor who was first promoted to the priesthood sits in the first place after the Dean. When the Deanship of the Rota becomes vacant, that Auditor succeeds to the office of Dean who has held the first place after the Dean. Each Auditor appoints an assistant for himself with the approval of the Rotal College and the consent of the Sovereign Pontiff: each assistant retains his office at the will of his Auditor. The Sacred Rota must

also have a Promoter of Justice and likewise a Defender of the sacred bond of marriage, of religious profession and of sacred ordination. These officials must be priests, Doctors of Theology and of Canon Law, appointed by the Pope on the recommendation of the Rotal College. Notaries are to be appointed after concursus by the Rotal College, and the appointment is to be confirmed by the Roman Pontiff. As many Notaries as will be required are to be thus appointed: two of them at least must be priests, who alone are to perform the duties of Notaries in criminal cases of clerics and religious. Each Auditor after nomination, before assuming his office, must take an oath in presence of the whole College and of one of the Notaries to fulfil his duties with fidelity. Each assistant will take a similar oath as will also the other officials of the Tribunal, in presence of the Dean and of one of the Notaries. The Auditors, assistants, and other officials are bound to secrecy in the performance of their respective duties: if they violate this obligation or cause grave detriment to litigants through negligence or fraud, they are bound to pay damages. The Rota gives its decisions in one of two forms, either through a commission of three Auditors, or through the full College, unless

the Sovereign Pontiff otherwise ordain for a particular case.

COMPETENCE OF THE HOLY ROMAN ROTA

The competence of this Tribunal is set forth in four canons (14-17) of the *Lex Propria.* It decides in the first instance those cases committed to it by the Roman Pontiff, acting either *motu proprio,* or at the petition of the contesting parties; it also decides such cases as have been tried judicially by Ordinaries in the first or second instance and are legitimately appealed. Besides, it settles in the last instance cases already decided in the first or second instance by Ordinaries or by any other tribunal, when the causes have not passed into *res judicatae* and are legitimately appealed to the Holy See.

LIMITATION OF JURISDICTION

What are termed *Causae majores,* on account of their object or of the persons concerned in them, are excluded from the authority of this Tribunal. It is not here proposed to mention in detail all the causes which are to be held as *majores,* and over which, therefore, the S. R. Rota has no jurisdiction. Let it suffice to say that they refer to questions of more than ordi-

nary moment, such as matters of doctrine, the general discipline of the Church, beatification and canonization of saints, approbation of Religious Orders, creation of episcopal sees, the union or dismemberment of dioceses, the appointment, transfer, or deposition of bishops. There is another class of causes in which this tribunal of the Rota possesses no authority, viz. when Ordinaries give decisions without observance of judicial procedure, there can be no appeal to the Roman Rota; such questions are to be brought before one of the Roman Congregations according to the character of the matter in dispute. If this Tribunal were to examine even incidentally into questions of either class and pronounce sentence, the sentence would be *ipso jure* null.

METHOD OF JUDICIAL PROCEDURE

This portion of the subject is minutely set forth in canons 18-34 of the *Lex Propria,* so that the reader may safely see for himself what is permitted and required on the part of litigants, plaintiff, and defendant; what the Judges may allow or must prohibit. Each contestant may plead his own cause or he may engage the services of a procurator or advocate. There must

be a statement of the case in writing. No oral informations are allowed: nor is there any oratorical effort permitted to either party in the suit. Sometimes, however, leave is given for special reason to speak to the Bench of Auditors. Limitations are placed regarding the time allowed for answering the statement of each litigant, as also regarding the length of such answers, while the Judges are vested with authority to deviate for just reason from those limitations. The Auditors meet on an appointed day for a secret discussion of the case. Each one brings his vote in a written opinion, which contains not only the conclusions he has arrived at, but also the proofs, whether of law or of fact. In this discussion an Auditor may recede from his conclusion, if he think it just and necessary. The sentence of the Court is that of an absolute majority of the Auditors present, so that in the ordinary bench of three Auditors, two votes are sufficient and necessary for a valid sentence. The reader may here be left to study the statutes on the Procedure of the Rota. He cannot fail to be convinced that these statutes are marked with great consideration for the common good and that nothing has been left undone to procure full justice for the contending parties.

CHAPTER VIII

The Apostolic Segnatura

In treating of the Tribunal of the Apostolic Segnatura, the Constitution, *Sapienti consilio,* has only the following words: "We have also deemed it well to restore the supreme Tribunal of the Apostolic Segnatura and by these present letters we do restore it, or rather we institute it in the manner determined in the above-mentioned law, suppressing the ancient organization of the Papal Segnatura of Grace and Justice." According to the legislation here set forth a Supreme Tribunal of the Apostolic Segnatura is now instituted, to be regulated by statutes which are given in the *Lex Propria;* and the Papal Segnatura heretofore existing is suppressed.

The term, "Segnatura," or "Signatura," took its origin from the fact that, when petitions of various kinds were presented to the Sovereign Pontiff, the answer to each petition was accompanied with the signature of the Pope. Some

petitions were sent in order to obtain favors; there were others whose purpose was to settle disputes between contending parties. As the Roman Pontiff could not personally examine all those petitions, there were certain officials appointed, *Referendarii Apostolici,* Apostolic Referees, whose duty it was to examine those petitions and declare what answer should be given to them. For a considerable period a distinction was made between those Referees who were concerned with questions of favor and those who were to give their opinion upon the rights of contestants. Pius IV in the Constitution *Cum nuper* (1 July, 1562) refers to these two species of Referees as recognized by ecclesiastical usage. However, for a long time the same body of Clerics gave their opinion on both kinds of petitions. Sixtus V in the Constitution *Quemadmodum* (22 September, 1586) reduced the number of Referees and defined more exactly the qualifications needed for the office. Subsequently the Referees of Justice were divided by Alexander VII in the Constitution *Inter cetera* (13 June, 1656) into those who possessed the power of voting and those who were devoid of this power. By the same Constitution he established a College of voting Referees, twelve in number. In recent times the Segnatura of

Justice had only few functions to perform, such as to decide controversies regarding the nullity of certain judicial acts, while all the duties formerly devolving upon the Segnatura of Favor have been performed by the Sacred Congregations. By the legislation of the Constitution *Sapienti consilio,* both the Segnatura of Justice and that of Grace are now abolished.

The Apostolic Segnatura under the New Legislation

This Tribunal, which has been instituted by the present Sovereign Pontiff, will be best understood from the Statutes which are set down in the *Lex Propria* and which may be found in the *Acta Apostolicae Sedis* pp. 29-31). So for as the *Lex Propria* refers to the Apostolic Segnatura, it is contained in canons 35 to 43 inclusive, wherein two subjects are treated, viz. the constitution and competence of this tribunal, and its method of judicial procedure.

Constitution and Competence of the Apostolic Segnatura

This tribunal consists of six Cardinals chosen by the Sovereign Pontiff, who also designates

one of them as Prefect. There is also an Assistant or Secretary, who under the direction of the Prefect is to do all that may be required for the preparation and expedition of cases. There is likewise appointed at least one Notary, whose duty it is to assist the Secretary, and one custodian of the office chamber of the Segnatura. The former official should be a Priest; the latter should be a layman. Besides, Consultors are appointed by the Sovereign Pontiff in order that they may examine and give their opinion on whatever questions may be presented to them by the tribunal. Whatever regulations have been made for the officials of the Rota in regard to their nomination and discipline are to apply *cum proportione* to the officers of this Tribunal.

Its province is confined to questions relating to Auditors of the Rota and to the sentences pronounced by them. Thus if objection be made against an Auditor, or if he have inflicted injury upon any one, it belongs to the apostolic Segnatura to investigate the case and to give judgment thereon. Similarily, if a charge of nullity be brought against a sentence of the Rota, or if a demand be made for entire compensation against a Rotal sentence which has already passed into a *res judicata,* it appertains to the

Apostolic Segnatura to take cognizance and give judgment.

MODE OF JUDICIAL PROCEDURE

In the first of the six canons (n. 38) upon the subject contained in the *Lex Propria,* it is laid down that a petition for compensation, as also a petition for the introduction of a case of nullity against a sentence of the Rota may be admitted within a period of three months after the finding of a document, or the ascertaining of a cause justifying recourse to these remedies. But it is declared in the following canon (n. 39) that this petition for compensation does not suspend the execution of judgment. This tribunal is nevertheless empowered to issue an order to restrain execution, or to oblige the victorious party to give security for making full compensation.

In order that a case may be brought before this tribunal, a statement must be presented to the Secretary of the Segnatura. This official along with the Cardinal Prefect must examine the statement and declare whether it has sufficient foundation or not. In the former supposition it is admitted; in the latter it is rejected. When a criminal case is brought against one or

more of the Auditors of the Rota on the ground of violation of secrecy, or on the ground of damages inflicted through null or unjust acts in their judicial capacity, strict canonical procedure prescribed by Canon Law is to be observed. In the trials against Auditors on other grounds, the Apostolic Segnatura is not bound by all the canonical observances, looking solely, as it should, to the attainment of truth, citing however interested parties and fixing some term for the presentation of claims. Other particular regulations to be observed by the Apostolic Segnatura in its judicial procedure are found in canons 41, 42, and 43 of the *Lex Propria* and need not here be given in detail. In the last mentioned canon (43) there is a general regulation set down, viz. that for the proper expedition of judicial business, whenever the special rules given for the Apostolic Segnatura are insufficient, this tribunal is to be guided by the laws laid down for the S. Rota and by the enactments of common law.

CHAPTER IX

The Sacred Offices: The Apostolic Chancery: The Apostolic Datary: The Apostolic Camera

In the preamble of the Constitution *Sapienti consilio*, the Sovereign Pontiff lays down that the Roman Curia is composed of Congregations, Tribunals, and Offices. Having treated at some length of the two former departments in previous chapters, it still remains for us to consider the third department, which comprises five Offices. These we shall now briefly discuss, following the order set down in the Constitution itself. The term Offices (*Officia*), it is hardly necessary to say, here designates certain secretariates established in Rome for the purpose of expediting ecclesiastical business.

The Apostolic Chancery—in Former Times

From the early ages of Christianity the Popes were accustomed to keep records of various

pontifical acts, and officials were placed in charge of the archives containing these records. These officials were called *Scriniarii* and *Chartularii;* to these were added *Notarii.* The chief of these officials was termed *Protoscriniarius,* and his position became so exalted a dignity as to be conferred on bishops. It would seem that only in the eleventh century the word *Cancellarius* began to be applied to the holder of this dignity. It is not quite clear why he received this title. Some are of opinion that he was thus called because he was accustomed to *cancel* defective documents, while there are others who think that this name was given to him because he was wont to give audiences behind grating (*cancelli*). From the thirteenth century the chief official was no longer designated as Chancellor, but Vice-Chancellor, and the practice was continued even till the reorganization of the Roman Curia by the present Sovereign Pontiff. A reason for the use of the term Vice-Chancellor rather than Chancellor, has been found in the fact that formerly the prefectship of the Chancery was conferred upon a person of less exalted dignity than that of a Cardinal, so that when the practice was subsequently altered, a Cardinal in assuming the duties of the Chancellor was not lowered from his former dignity, since he did not receive

the title of Chancellor, but performed his duties while retaining the more exalted dignity of Cardinal. In more recent times the prefect of this Office received another title, viz., *Summista* which was given to him by Alexander VIII in 1690. There was another official called *Regens Cancellariae,* who was also named *Subsummista,* because he acted as substitute for the Vice-Chancellor. Among the offices of the Chancery there were many others, such as *Notarius, Secretarius, Plumbator,* etc.; there was even a college of prelates appointed to assist in the functions of the Chancery which was called *Collegium Praelatorum de parco majori,* and which had a dean and secretary.

The scope of work for the Apostolic Chancery was for a long time very extensive, as may be shown from a letter of St. Bernard to Cardinal Haimerich, who was Vice-Chancellor at the time the letter was written. We shall here make a brief extract from the letter. "Siquidem cum nullum ferme fiat in orbe bonum, quod per manus quodammodo Romani Cancellarii transire non habet, ut vix bonum judicetur, quod ejus prius non fuerit examinatum judicio, moderatum consilio, studio roboratum et confirmatum adjutorio," etc. The Saint proceeds to say that the man holding this position should be regarded as

the most fortunate, or the most miserable, since he either participates in all that is worthy, or else proves himself the enemy of all that is good; therefore rightly should he have all praise or censure corresponding to the results and the merits of his endeavors. Afterwards, when the Secretariate of Briefs and the Apostolic *Dataria* were separated from the Roman Chancery, and still more when the various Roman Congregations with their respective Secretariates were introduced, the Chancery became greatly diminished in the number of its functions. Still it continued to be competent to expedite all the acts of the Roman Pontiffs which by written law or the approved practice of the Curia should be published in *forma Bullae.*

The Apostolic Chancery Under the New Legislation

Whilst it would be interesting to enter more in detail into the history of the functions of the Apostolic Chancery during the many centuries of its existence, it is more to our present purpose to ascertain the scope of its operations as determined by the legislation of the *Sapienti consilio.* For this end we naturally turn to the document itself and to any supplementary publications of

the Holy See upon the subject. In the section of the constitution relating to the Apostolic Chancery allusion is made to three headings, the personnel, the functions, and the mode of procedure.

THE PERSONNEL

As regards the first heading, it is simply stated that one of the Cardinals of the Holy Roman Church will preside over the Office and that he shall assume the title of Chancellor instead of Vice-Chancellor. Whoever holds the dignity of Chancellor holds likewise the Office of Notary in the Sacred Consistory. The reason for this latter enactment is quite obvious, since the official who performs the duties of Notary for the S. Consistory must be well acquainted with the great bulk of the business which has to be expedited by the Chancery. As to the reason for the title of Chancellor being given henceforth to the Cardinal appointed to preside over the Chancery, it may be assumed that the Sovereign Pontiff wishes to have it understood that the functions of the Prefect of the Chancery are sufficiently important to be performed by a member of the Sacred College, or in other words that the title of Chancellor is

not beneath the Cardinalitial dignity. Along with the Prefect of the Chancery there is a Regent; also five Prothonotaries Apostolic; besides, there is an *Adjutor Studii* or Informator, whose duty it is to be well versed in the cause and, if this be a matter of considerable length, to give a synopsis of it.[1] In the Office of the Chancery there is a secretary who performs the duties of archivist, and there are likewise four writers. Each of these officials has his respective duties which may be found in the "Normae Peculiares," Chap. 6.

FUNCTIONS OF THE ROMAN CHANCERY

The functions of the Chancery are briefly set down in the Constitution, where we find the following: "Henceforth the sole proper function reserved to the office of the *Cancellaria* shall be that of forwarding *sub plumbo* the Apostolic Letters concerning the provision of Consistorial benefices, the institution of new dioceses and chapters, and the transaction of the other great affairs of the Church." In treating of the Consistorial Congregation we have seen that the chief part of its functions consists in the erection of new dioceses and the appointment of bishops

[1] Cf. Normae Peculiares, pp. 71, 72, *A. A. Sedis.*

in those places outside the jurisdiction of the S. Propaganda; and it belongs to the Apostolic Chancery to expedite these and other such grave affairs of the Church. It may be well to note that Papal Constitutions or Apostolic Letters are usually issued under the form of Bulls or of Briefs. There are indeed simple Apostolic Letters not issued under either of these forms, but as these do not present any special peculiarity, reference to them may be here omitted. Bulls are distinguished from Briefs inasmuch as the former relate to the more important business of the Church, and Briefs to the less important. The document called a Bull was formerly distinguished by being written in Gothic characters on strong brown parchment with a hanging seal of lead (*sub plumbo*) or gold. The seal (*Bulla*) bore on one side the images of SS. Peter and Paul, and on the obverse side the name of the Roman Pontiff. At the beginning of the reign of the late Pope, Leo XIII, a change was introduced on 29 December, 1878. Instead of the Gothic characters it was ordered that the ordinary Latin characters should be used, while only in the more solemn acts of the Holy See was the leaden seal to be attached. In the less solemn acts the seal itself was not to be attached, but only the impression of a red seal having the

images of SS. Peter and Paul with the name of the reigning Pontiff inscribed around it.

The other kind of Papal Constitution, called a Brief, employed in less grave concerns of the Church, is written upon white thin parchment or vellum; sometimes ordinary paper is used, but always of excellent quality. Briefs are not expedited by the Apostolic Chancery, but by the Secretariate of State or by the Secretariate of Briefs to Princes, while it appertains to the Chancery to expedite Papal documents *sub plumbo* in the form of a Bull. On the subject of Bulls and Briefs the reader can find a very able and exhaustive article in the second volume of the new *Catholic Encyclopedia.*

MODE OF PROCEDURE

Hitherto two modes of procedure have been employed by the Apostolic Chancery. One was called the ordinary; the other was called the extraordinary method. The former was employed when the Rules of the Chancery were exactly observed, so that nothing was changed in the customary form or clauses, and when the expedition was effected through the ordinary officials. The extraordinary method was employed in three different ways, termed respec-

tively *per viam secretam, de camera,* and *de curia.* The first of these, *per viam secretam,* signified that the Bulls were forwarded gratis and without strict observance of the rules of the Chancery; the second way, *de camera,* signified that, although a tax was imposed, the other rules of the Chancery were not rigidly observed; and the third, *de curia,* meant that the Bulls, after receiving the signatures of the Pro-Datary and of the Secretary of Briefs, were recorded at the Secretariate of Briefs and despatched *extra Cancellariam.* It should be here noted that these three modes of expedition have been suppressed by the new Constitution, and the ordinary method, *per viam Cancellariae,* alone remains in force. It is also deserving of notice that the College of Prelates, formerly known as *Abbreviatores majoris vel minoris residentiae,* is likewise suppressed by the Constitution and that their duties are to be performed by the Prothonotaries Apostolic.

The Apostolic Datary

its origin

The second of the Offices of the Roman Curia is called the Apostolic Datary. It is difficult to

determine with accuracy the date of its origin. Some consider that it was certainly in existence before Honorius III ascended the Papal throne in 1216.[1] Others are of opinion that it hardly began before the fourteenth century.[2] The name *Datary* is more probably derived from *datando,* indicating the time and place of issuing the favor rather than the fact that it was a favor (*dando*). The *Datarius* or head of this Office possessed very extensive powers in granting those favors which were not exclusively reserved to the Secretariate of Briefs, while of course whatever favors he granted were in reality granted by the Pope himself according to the well-known adage, *"Papa non Datarius concedit gratias"*. In particular the Datary received authority to grant dispensations in diriment impediments of matrimony, in irregularities, in the alienation of ecclesiastical property, and in conferring those benefices reserved to the Pope which were not Consistorial.

FORMER PERSONNEL AND MODE OF PROCEDURE

The *Datarius* or Prefect of the Datary was formerly a Prelate, but from the fifteenth cen-

[1] Cf. Baart, *Roman Court,* p. 246.

[2] Cf. Wernz, *Jus Decretalium,* Vol. II, N. 678; Hilling, *Procedure at the Roman Curia,* p. 123.

tury he has usually been a Cardinal; hence for the same reason as in the case of the Vice-Chancellor, the incumbent of this office has been called *Pro-Datarius*. Under him there were three major officials, viz., the Sub-Datary, the official *per obitum*, and the official *per concessionem*. It belonged to the first of these to assist the *Datarius* in a special manner and to supply his place even in the causes which were required to be brought before the personal notice of the Roman Pontiff. The official *per obitum* had special charge of those matters which were brought before the *Dataria* on account of vacancies occurring through death (*per obitum*); the third official was put in charge of dispensations or concessions granted by the Datary (*per concessionem*). The minor officials of the Datary were very numerous, and it is not necessary to stop here in order to name them. The reader may consult the authors previously cited for a list of the minor offices. For a long time it was customary to hold a daily meeting of the Datary, at which the Cardinal Pro-Datary and the three major officials were present. The petitions were discussed at those meetings, and, if favorably received, were either granted by the Cardinal Pro-Datary, if it came within his authority to grant them, or if not, they were proposed in audience

to the Sovereign Pontiff. Then, when the appointments and dispensations and answers were made or given, there were other officials to expedite them. From time to time various changes were effected in the procedure of the Apostolic Datary. Even within a few years prior to the publication of the Constitution *Sapienti consilio,* new regulations were made for this Office. Thus petitions for dispensations were regulated by a Statute of 1897; and the procedure for the grant of benefices was likewise regulated by an enactment of 1901.

ITS PRESENT SCOPE

The scope of the Datary has been greatly diminished by the Constitution *Sapienti consilio.* It no longer possesses any authority to grant matrimonial dispensations; it cannot give any dispensation in irregularities, nor can it grant permission for the alienation of ecclesiastical property. According to the terms of the new legislation: "For the future the one special function of the Dataria is to be that of taking cognizance of the fitness of those who aspire to non-consistorial benefices reserved to the Apostolic See; to draw up and forward the Apostolic Letters conferring these benefices; to dispense

from the requisite conditions for the conferring of these benefices; to look after the pensions and charges which the Supreme Pontiff shall have imposed for the conferring of them."

There are some ecclesiastical benefices which are conferred by the Consistorial Congregation, e. g., bishoprics not subject to the S. Propaganda. In countries subject to the latter the appointment to episcopal benefices appertains to the Propaganda itself with the confirmation of the Sovereign Pontiff. There are other ecclesiastical benefices which are not acquired through the Consistorial Congregation or through the Propaganda, and yet are reserved to the Holy See. It is this latter class of benefices which is entrusted to the supervision of the Datary. It belongs to this Office to determine the fitness of aspirants to these benefices, and to confer them through Apostolic letters. The Datary has likewise authority in the conferring of those benefices to exempt from the conditions required by the ecclesiastical law. This authority is somewhat similar to what the Congregation of the Council possesses in regard to parochial benefices which may be conferred by Ordinaries. It is the duty of the Datary to take care of the pensions and charges imposed in conferring those non-consistorial benefices reserved to the Holy See.

REGULATIONS TO BE OBSERVED

There are several regulations touching the Datary, which are found among the "Normae Peculiares". One prescribes that the method of procedure in the conferring of benefices should be determined by the Constitution *Sapienti consilio,* and by existing usage, in such manner, however, that the latter will not be in disagreement with the former. It is also laid down in the "Normae" that there should be a minute or written summary of the documents conferring the benefices, to be taken by an assistant; and this minute is to be preserved in the acts of the Datary. Besides it is mentioned in the "Normae" that no change is made in the method sometimes employed of conferring benefices by a decree of simple signature without the expedition of any Bull. When however benefices are conferred through Bulls, these are to be signed by the Cardinal Datary or, when this cannot be, by the Cardinal Secretary of State; in either case they should be countersigned with the signature of the official present who is first in the order of time after the *Datarius.*

THE PRESENT PERSONNEL OF THE DATARY

It is expressly set forth in the Constitution that this Office is under the presidency of one of the Cardinals and that he will have the title of *Datarius,* not *Pro-Datarius,* as heretofore. A similar change, and for a similar reason is made, as has been seen, regarding the title of Chancellor in place of Vice-Chancellor.

What the other officials under the Cardinal President are, we are not told in the Constitution nor in the "Normae;" but in the *Acta Apostolicae Sedis* for January, 1909 (pp. 132 and 133), a list of the other officers is given. Among these may be named the *Subdatarius,* Prefect, Substitute, and four Consultors—in all fifteen without reckoning the Cardinal Datary. In former times it was necessary to have a much larger number owing to the more extensive duties which were to be performed by this Office.

The Apostolic Camera

ORIGIN AND FORMER PERSONNEL

This is another of the Offices of the Roman Curia and one whose origin can be traced back to the end of the eleventh century. The eccle-

siastic who was placed over it received the title, *Domini Papae Camerarius.* From the middle of the twelfth century until the fifteenth, Cardinals were frequently appointed to this position, and since the latter date this dignity has been entirely confined to the Cardinalitial body. Along with the *Camerarius* or Chamberlain there were three assistants, one of whom was called the Vice-Chamberlain, the second General Treasurer, and the third Auditor General. The first assistant or Vice-Chamberlain was always, after the seventeenth century, invested with the title of *Gubernator Urbis,* and sometimes even before that time. The General Treasurer had the guardianship of the Papal Treasury and also a supervision over certain officials termed *Collectores* and *Subcollectores.* The third assistant or Auditor General received considerable civil and criminal jurisdiction, and under his direction there was a tribunal of justice consisting of prelates and doctors of laws.

COMPETENCE OF THE APOSTOLIC CAMERA HITHERTO

For many years the Apostolic Camera possessed authority for administering the rights and temporal possessions of the Holy See; it was,

besides, a tribunal of fiscal causes, as also in some criminal and civil matters.[1] In modern times the functions of the Camera were limited to the temporal government of the papal dominions, so that when the Holy See was robbed of these dominions in 1870, there has scarcely been any proper function for this Office. However, during the vacancy of the Apostolic See it retained full authority in the Palace of the Pontiff. It belonged to the Cardinal Chamberlain to enter the Pope's chamber on the occasion of his death and to declare officially the fact of that death. The examination of the corpse was made in his presence, and he then entered upon the administration of the Apostolic Palace and made provision for the Conclave.

PRESENT STATUS OF THE APOSTOLIC CAMERA

This is briefly set forth in the words of the Constitution *Sapienti consilio:* "To this Office belong the care and the administration of the property and temporal rights of the Holy See, especially during the period of vacancy. It is presided over by a Cardinal Chamberlain of Holy Roman Church, who in the fulfilment of his office during the vacancy of the See, shall

[1] Cf. Wernz, *Jus Decret.*, Vol. II, n. 670.

be governed by the rules contained in the Constitution, *Vacante Sede Apostolica* of 25 December, 1904." Thus it appears that the Apostolic Camera has even now the care and administration of the rights and property of the Holy See, especially between the death of the Roman Pontiff and the election of his successor.

Now in regard to the functions appertaining to this Office and to the Cardinal Chamberlain, who is its president, during the interregnum, we are referred for information to the regulations contained in the Constitution of the present Pope entitled *Vacante Sede Apostolica.* It is to be noted that this important document contains the most recent legislation regarding the observance to be followed during a vacancy of the Holy See. Many of the requirements enacted by preceding Pontiffs are here confirmed, while a few of them are abrogated and new ones substituted. This Constitution, consisting of ninety-one sections, is divided into two main parts. The first part deals with the authority of the S. College of Cardinals during the vacancy; the meetings of the Cardinals, general and particular; the Sacred Congregations and the faculties they possess; and the obsequies of the Pontiff. The second part regards the election of the Roman Pontiff and contains seven chapters dealing with

the Electors or Cardinals, Conclavists, i. e. those appointed to attend upon the Cardinals in Conclave, the entrance into Conclave, the *clausura* and secrecy to be observed by the Electors and Conclavists, the form of election, certain observances during election, the acceptance and proclamation of the election; finally the consecration and coronation of the new Pope. It is not proposed here to give an exposition of the contents of this Constitution, since for this purpose an entire chapter or more properly several chapters would be needed; it is merely intended to ascertain from this document the duties devolving upon the Apostolic Camera and its President, the Cardinal Chamberlain, during the vacancy of the Holy See. In Section 14 of this Constitution it is laid down that the Cardinal Chamberlain has charge of the temporal goods and rights of the Holy See and that he is assisted in the fulfilment of his duties by the senior Cardinal in each of the three Orders (Cardinal Bishops, Cardinal Priests, and Cardinal Deacons); he should also obtain the suffrages of the whole College of Cardinals upon questions of business. As soon as he has received information of the death of the Sovereign Pontiff from the Prefect of the Apostolic Palace, he should proceed thereto in order to take possession and exercise control.

He must also make a juridical investigation of the Pontiff's death and draw up an authentic certificate thereto; he should likewise after consulting the three Senior Cardinals just referred to, determine the most suitable mode of preserving the body of the dead Pontiff, unless the latter while still alive had made known his will upon the matter. The Cardinal Chamberlain is also required to affix seals to the private apartments of the deceased Pontiff, and to give information of the death to the Cardinal Vicar of the City. He must too in the name and with the consent of the College of Cardinals make whatever arrangements may be deemed expedient in the circumstances for defending the rights of the Holy See and for its proper administration. There are other duties to be discharged by the Cardinal Chamberlain, mentioned in the same Constitution, *Sede Vacante Apostolica,* such as to see that the oath of secrecy, obligatory under pain of excommunication specially reserved to the future Pontiff, be taken by the Conclavists at least one or two days before entrance into Conclave (Sect. 40). Then the keys of the Conclave are to be handed to the Chamberlain after it has been closed within and without; and the Chamberlain along with the three Cardinals already mentioned is to examine

the hidden places and corners of the Conclave in order that no one forbidden should remain (Sect. 46). There are a few other details to be executed by the Cardinal Chamberlain, but being of less importance they are here omitted.

THE PERSONNEL OF THE NEW CAMERA

Regarding the personnel of the new Apostolic Camera, it appears that besides the Cardinal Chamberlain there are the Vice-Chamberlain, the General Auditor, and the General Treasurer, although from the *Index Praepositorum et Officialium in Romana Curia* as found in the *Acta Apostolicae Sedis* for January, 1909 (p. 133), the last-named office is not yet filled. In the same list we find that in the new Apostolic Camera there are also eight prelates and three lay officials, the Secretary, the Custodian and a third, who is both Notary and Chancellor of the Camera.

CHAPTER X

The Sacred Offices (continued): The Secretariate of State: The Secretariates of Briefs to Princes and of Latin Letters: Summary of Functions in the Departments of the Roman Curia

One of the Offices of the Roman Curia is called the Secretariate of State. It is less ancient than any of those we have considered. It does not date farther back than the fifteenth century. Indeed, some writers hold that the first Papal Secretary of State was St. Charles Borromeo, who was appointed to the position by Pius IV in 1560. The institution of this Office was contemporary with the introduction of diplomatic embassies at royal Courts. At first it was generally some near relative of the Pope enjoying his special confidence, who was appointed to take charge of diplomatic business with civil governments; hence he was called "Cardinalis Nepos."[1]. He had a considerable number of Secretaries under him to

[1] Cf. Wernz, *Jus Decret.*, Vol. II, N. 677; Hilling, *Procedure at the Roman Curia*, p. 110.

assist in performing the necessary functions. The custom of appointing a relative of the Pope as head of the Secretariate of State was discontinued by Innocent XII, who issued (22 June, 1692) the Bull *Romanum decet,* against nepotism.

SECRETARIATE OF STATE IN RECENT TIMES

In recent times, before the Roman Pontiff was despoiled of his temporal dominions, the Cardinal Secretary of State was required to preside at meetings of the Ministerial Council, which consisted of the Ministers of Justice, Finances, Commerce, Industry, War; he was also required to carry on diplomatic affairs with foreign governments; but after the annexation of 1870, his duties in this respect were diminished. However, even since the spoliation of the temporal dominions of the Holy See, the Cardinal Secretary of State has had charge of many weighty and responsible functions. There have been some civil governments with which the Holy See has carried on diplomatic relations; for instance, Austria-Hungary, Spain and Portugal[1] continue to send their ambassadors. There are other governments which without having an em-

[1] In the present year, 1912, Portugal ceased send an Ambassador to the Holy See.

bassy at the Vatican appoint a minister, such as Prussia, Bavaria, Belgium, etc. Hilling (p. 112) mentions eighteen countries which still hold diplomatic relations with the Holy See. Then there are Nunciatures established by the Holy See in various countries, for instance, in each of those having an ambassador to the Holy See; there are other nunciatures of less importance, being called nunciatures of the second class, such as those in Bavaria, Belgium, and Brazil. Besides conducting diplomatic affairs with various governments, the Cardinal Secretary of State has given directions to Apostolic Nuncios, and by special command of the Pope has been employed to transmit instructions to Ordinaries; he has also been appointed to expedite pontifical appointments in the Roman Curia. In all these functions he has been the chief agent and representative of the Holy See.

THE SECRETARIATE OF STATE UNDER THE NEW CONSTITUTION

According to the Constitution *Sapienti consilio,* there are three sections or branches in the Secretariate of State. The first of these relates to extraordinary ecclesiastical affairs; it pertains to the duties of this section to transmit to the

Congregation for Extraordinary Ecclesiastical Affairs those matters which the Roman Pontiff has ordered to be examined by this Congregation; while the matters which appertain to the province of each of the other Congregations are to be remitted to these Congregations respectively according to the character of the business. The second section relates to the ordinary affairs which have been handled by the Secretariate of State in recent times, as was stated above. It likewise belongs to this section to confer dignities both civil and ecclesiastical, except those reserved to the prelate placed over the papal household. The third section or branch of the Secretariate of State has charge of the expedition of these Briefs committed to it by the various Congregations; the Secretariate of Briefs which hitherto existed has been abolished and its functions are now discharged by this third section of the Secretariate of State.

THE PERSONNEL OF THE PRESENT SECRETARIATE OF STATE

The Cardinal Secretary of State is supreme moderator of the whole Office, while in each of the three sections just referred to there is a special president. The Secretary of the Congrega-

tion of Extraordinary Affairs presides over the first section; the Substitute for Ordinary Affairs presides over the second; and the Chancellor of Apostolic Briefs is the president of the third section. In each section there is a number of officials appointed, a list of whom the reader will find in the *Acta Apostolicae Sedis* for January, 1909 (p. 134).

The Secretariates of Briefs to Princes and of Latin Letters

The fifth and last of the Offices named in the Constitution *Sapienti consilio,* bears the title *Secretariae Brevium ad Principes et Epistolarum Latinarum.* Heretofore there were three distinct Secretariates in the Roman Curia, the Secretariate of Briefs, the Secretariate of Briefs to Princes, and the Secretariate of Latin Letters.

Origin of the Secretariate of Briefs

The Apostolic Chancery, which has been considered in the preceding chapters was for a long period the only Office for the expedition of Apostolic Letters; but by degrees a distinct department was formed to expedite matters of less importance. This was the Secretariate

of Briefs dating back to the fifteenth century. This Office acquired exclusive authority to expedite Briefs strictly so-called, which by common law or by special ordination of the Roman Pontiffs were required for certain matters. Moreover it was empowered to grant various favors, as is clear from the Bull, *Gravissimum Ecclesiae,* of Benedict XIV, where there is enumerated a list of favors and privileges which this Secretariate could confer either exclusively, or cumulatively along with the Dataria. Thus it could grant dispensation from the canonical age for ordination, the privilege of keeping the Blessed Sacrament in a private chapel, as well as that of a private oratory for the celebration of Mass. Besides, this Secretariate could grant to the clergy the faculty of blessing rosaries with the Apostolic Indulgences attached thereto, as also the faculty of a privileged altar. Furthermore, there were petitions sent to the Holy See, which could not be directly granted by the Secretariate, but which the latter had authority to examine and, if deemed proper, could recommend the Holy See to grant. This Secretariate was employed by the late Sovereign Pontiff Leo XIII to make grants of Indulgences, after the power had been withdrawn from the Congregation of Indulgences by the Motu Proprio, *Christianae reipub-*

licae; but this last-named power is now reserved exclusively to the Congregation of the Holy Office.

The second Secretariate of the Roman Curia was called the Secretariate of Briefs to Princes. It was separated from the Secretariate of Briefs by the Bull, *Romanus Pontifex,* in April, 1678. As its name implies, its chief purpose was to expedite Apostolic Letters to persons of exalted position.

The Secretariate of Latin Letters was instituted for the composition of Latin Briefs which were not expedited by either of the two preceding Secretariates. It has had a Secretary and an Assistant.

THE THREE SECRETARIATES UNDER THE NEW RÉGIME

The Secretariate of Briefs is no longer a separate Office of the Curia; it is now, as has been observed, a section or department of the Secretariate of State, which is set down in the Constitution *Sapienti consilio,* as the fourth Office of the Curia. The other two, the Secretariate of Briefs to Princes and the Secretariate of Latin Letters, form a twofold office, and their functions continue as heretofore. The former has at

present a Secretary and two Assistants; the latter (the Secretariate of Latin Letters) has a Secretary and one Assistant.[1] Among the "Normae Peculiares" it is stated that a special Commission of three Cardinals, one of whom is the Cardinal Secretary of State, is charged with the preparation of new formularies for the issuance of Apostolic Briefs.[1]

We have now completed our study of the three departments of the Roman Curia as reorganized by the Constitution *Sapienti consilio.* In treating of the Sacred Congregations it has been our purpose to point out the competency of each of them as determined by that Constitution and to show in what respects the new legislation differs from what preceded it. When considering the other two branches of the Roman Curia, the Sacred Tribunals and the Offices, we followed a similar method. In this commentary upon the new Constitution it has been our endeavor to collect the proper interpretation of each portion from the terms in which the legislation has been expressed, and to make use of the pontifical pronouncements and the opinions of various writers for the same purpose. In some particulars it is not unlikely that doubts will

[1] Cf. *Acta Apost. Sed.*, Vol. I, p. 135.
[1] Cf. *Act. Apost. Sed.*, Vol. I, p. 104.

arise concerning the competence of the several Congregations, Tribunals, and Offices of the Curia. These will be solved by the Consistorial Congregation, to whose province it belongs to solve such doubts.[2]

It has been suggested that it would be well to present here a summary of the functions appertaining to each of the Congregations, Tribunals, and Offices of the Roman Curia, so that one may see at a glance their precise competence. This may be done as follows:

THE SACRED CONGREGATIONS.

HOLY OFFICE	Defence of doctrine; judgment of heresy and of other crimes which excite suspicion of heresy; doctrine and use of Indulgences; Pauline privilege, *disparitas cultus,* and *mixta religio;* doctrine of the Sacraments.
CONSISTORIAL CONGREGATION	Preparation of business for the Consistories; erection of new dioceses and chapters, election of bishops outside the Propaganda territories; the government of each diocese, fulfilment of episcopal duties, *relatio status* of bishops; government and studies of seminaries; authority for solving doubts regarding the competence of other Congregations.

[2] Cf. *Act. Apost. Sed.,* Vol. I, p. 83, N. 6.

CONGREGATION ON THE DISCIPLINE OF THE SACRAMENTS	Discipline of the Sacraments; matrimonial dispensations *in foro externo, sanatio in radice,* dispensation *super rato,* legitimation of offspring; dispensation of seculars for ordination; dispensation regarding the time, place, and conditions for receiving Holy Communion, saying Mass, and reserving the Blessed Sacrament.
CONGREGATION OF THE COUNCIL	Universal discipline of the secular clergy and faithful; observance of the precepts of the Church, such as fasting (not the Eucharistic fast), abstinence, feasts; regulations for parish priests and canons; Sodalities, pious legacies, stipends for Masses, benefices, ecclesiastical goods; celebration and recognition of Councils.
CONGREGATION FOR RELIGIOUS	Affairs of religious of either sex with simple or solemn vows; others living in common like religious; secular Third Orders; regulation of matters of religious between themselves and with others; dispensations from vows and precepts.
CONGREGATION DE PROPAGANDA FIDE	For countries subject to its jurisdiction "*Ceteras Congregationes habet in ventre;*" not however in matters relating to faith, matrimony, discipline of Sacred Rites, or to religious *as religious.*

CONGREGATION OF THE INDEX	Examination of books brought under its notice, and, if advisable, their condemnation; dispensations for prohibited books; investigation concerning the circulation of writings deserving condemnation; reminding Ordinaries to condemn and denounce pernicious works.
CONGREGATION OF SACRED RITES	Rites and ceremonies of the Latin Church, especially for Mass, administration of the Sacraments, divine Office; dispensations therein; insignia and privileges in relation to Sacred Rites; beatification and canonization of Saints; Sacred Relics.
CEREMONIAL CONGREGATION	Ceremonies to be observed in the Pontifical Chapel and Court; sacred functions of Cardinals outside the Pontifical Chapel; precedence of Cardinals and representatives sent to the Holy See.
CONGREGATION FOR EXTRA. ECC. AFFAIRS	Matters submitted for its examination by the R. Pontiff through the Cardinal Secretary of State, especially those relating to civil laws and to pacts made with different States.
CONGREGATION OF STUDIES	Regulation of the studies in universities depending on the authority of the Church; approval of new institutions; faculty for conferring academic degrees.

Tribunals

SACRED PENITENTIARY	Jurisdiction for the *forum internum* alone, in which absolution, dispensations, etc., are granted.
S. ROTA	All contentious cases, civil or criminal, not major ones.
APOST. SEGNATURA	Particular cases concerning Rotal sentences and Auditors of the Rota.

Offices

APOSTOLIC CHANCERY	Expedition of Apostolic Letters *sub plumbo* concerning the provision of consistorial benefices, erection of new dioceses, and other important affairs of the Church.
APOSTOLIC DATARY	Apostolic Letters regarding non-consistorial benefices reserved to the Holy See; dispensations from conditions required for these benefices; pensions and charges imposed.
APOSTOLIC CAMERA	Administration of the property and temporal rights of the Holy See, especially during a vacancy.
SECRETARIATE OF STATE	Extraordinary affairs submitted for examination to the Congregation for Extra. Affairs; ordinary affairs, especially the right of conferring honors, civil and ecclesiastical; despatch of Apostolic Briefs from the S. Congregations.

SECRET. OF BRIEFS TO PRINCES AND OF LAT. LET. — The expedition of Apostolic Letters to persons of exalted position; composition of Latin Letters.

In the concluding portion of the Constitution *Sapienti consilio* the Sovereign Pontiff sets forth various enactments, some of which have been referred to in previous chapters; there are others which have not yet been touched upon, such as certain regulations for the transaction of business in the Departments of the Roman Curia, as well as the authority of these Departments during a vacancy of the Holy See.

CHAPTER XI

The Epilogue of the Constitution "Sapienti Consilio": Lex Propria: Normae Communes: Normae Peculiares: Roman Commissions: Congregations of the Curia "Vacante Sede Apostolica."

In the previous chapters we followed the order laid down in the Constitution *Sapienti consilio*. This document, as has been seen, enumerates the three Departments of the Curia, setting forth the special province of each of the Congregations, as it also does for each of the Tribunals and Offices. It then proceeds as follows: "Wherefore the Congregations, Tribunals, and Offices we have mentioned shall constitute the Roman Curia, preserving their own constitutions as in existence before these Our Letters, save in so far as they may have been changed by the above prescriptions or according to the law and to the rules, whether general or special, added to this Constitution."

In order to understand the full tenor of the foregoing extract, it may prove useful to draw

attention to the first number of the *Acta Apostolicae Sedis,* or Official Bulletin of the Holy See, published 1 January, 1909. Looking through the pages of that number one finds not only a copy of the Constitution *Sapienti consilio,* but likewise three other documents, which are entitled respectively, *Lex Propria, Normae Communes, and Normae Peculiares.* It may be stated at once that these are the documents referred to in the extract just made from the Constitution, and that they therefore refer to the manner in which ecclesiastical business is to be transacted in the Departments of the Roman Curia. It is apparent then that to acquire a knowledge of the full working of this Curia it is necessary to have some acquaintance with the particular import of these documents. Since, however, we took in hand to give a commentary on the Constitution itself, and not on other Apostolic documents, it must suffice here to point out very briefly the purport of the three documents just mentioned.

Lex Propria

The full title of this document as given in the *Acta Apostolicae Sedis* is " Lex Propria Sacrae Romanae Rotae et Signaturae Apostolicae."

When treating of the Tribunals of the S. Rota and Apostolic Segnatura, allusion was made to certain Canons which prescribe the constitution, the competence, and the method of procedure in each of these Tribunals. The *Lex Propria,* besides, contains some canons regarding the Advocates employed in the management of business in these Tribunals. There is a College of Advocates appointed, whose duty it is to see that the obligations of the advocates are duly performed. By a vote of the College an advocate, may be reprehended, fined, suspended, or even dismissed from office.

Another portion of the *Lex Propria* has to do with the court expenses and is contained in five chapters. Without entering into details, it is well to note that there is a schedule of charges. Some of these charges are to be applied to the treasury of the Holy See in order to defray a part of the necessary expenses for maintaining the Tribunals of the Curia; other costs are imposed in order to give remuneration for particular work performed, e. g., for transcribing documents; whilst others are applied to advocates and procurators as fees for professional services. It is also prescribed in the *Lex Propria* that the poor are exempt from charges, and that those who are in straightened circumstances without being,

strictly speaking, poor are entitled to a reduction from the customary charges.

Normae Communes

The *Normae Communes,* or General Rules comprise certain regulations concerning Departments of the Roman Curia. In each of the Congregations, Tribunals, and Offices a two-fold class of officers is to be distinguished—the superior and the inferior officers. The former class constitutes what is called the Congress. To this body it belongs to consider and expedite business of minor importance; also to prepare matters of greater moment for a full meeting of a particular Department. This distinction of superior and inferior officers does not apply to the S. Rota, which has special regulations for its guidance, given in the *Lex Propria.* While superior officers are freely chosen by the Roman Pontiff, the inferior ones must before their appointment submit to an examination to be conducted according to definite rules. In each of the Departments, except the Rota, the nomination of candidates is left to the Cardinal President, after the superior officers of the same Department have proposed them. It is also ordained that the same person cannot hold two minor offices at the same time; when one

aspires to a higher office and obtains it, the lower one becomes vacant.

OATH OF OFFICE

Each officer, whether of superior or inferior grade, before assuming the duties of his office is required to take an oath in the presence of his Prelate "de officio fideliter implendo, de non recipiendis muneribus etiam sponte oblatis et de secreto servando." There is no need to point out the importance of this requirement, which is imposed in order that ecclesiastical business may be duly transacted. The secrecy here enjoined extends to all matters which by common law or by orders of superiors are to be kept secret, as also to those particulars in which secrecy is demanded by Ordinaries, and whenever prejudice might arise from the revelation of the secret either to persons immediately concerned or to the Church.

OFFICE HOURS

The officers are required regularly to be in their respective offices from 9.30 a. m. to 12.30 p. m., except on holidays; however, the law regulating a particular office may permit the work assigned to it to be performed at home. The Moderator can

give leave of absence to an officer for one or two days in the month, provided that such leave be not incompatible with the requirements of the office. Every year or every second year some days, not more than a week, may be allowed to each officer for spiritual exercises on the same condition, viz. that the concession be compatible with the necessities of the Department. There are certain days of the year when the offices will not be open for the transaction of business—all Feasts of precept; the anniversary of the election and the coronation of the reigning Pontiff, as also of the death of his predecessor; days on which public or semi-public Consistories are held; Monday, Tuesday and Wednesday in Quinquagesima week; the last four days of Lent; Monday and Tuesday in Easter week; vigil of Pentecost, Monday and Tuesday in Pentecost week, &c. The autumn holidays take place from 10 September till 31 October each year. During this interval there will be a number of major and minor officials to transact the more urgent business of the regular administration. The settlement of the weightier questions and the deliberations upon matters of greater intricacy are to be deferred until the month of November. Those who are occupied in business during the autumn holidays are entitled by law to get forty-five days at

another time of the year to be selected with the approval of the Moderator, regard being had to the necessities of the office.

Among the *Normae Communes* there are several enactments regarding the stipends paid to the officers of the Curia, concerning advocates, officers of expedition, procurators or agents, whether public or private; also on the manner of making application to the offices of the Holy See and of transacting business with these offices. The reader will find these matters treated in the *Acta Apostolicae Sedis,* N. 1, pp. 46-53. Any Catholic in the world may have recourse to any of the Departments of the Curia. This may be done directly by himself, or an agent may be employed. Each of the Ordinaries may freely transact business with the Curia, not only in matters that are personal, but likewise with regard to his diocese or any of his subjects who have recourse to him.

TAXATION

The regulations regarding taxation in the Congregations and Offices of the Roman Curia show not only great moderation, but also much consideration for the petitioners. In obtaining rescripts, indults, or dispensations, when the petitioner is poor, no tax whatever is to be collected;

if he be not absolutely poor (*quasi-pauperes*), only half the usual tax is to be paid, so that the rule is similar to what, as has been noticed above, prevails in the Tribunals of the Curia. The Ordinary should secretly ascertan from the parish priest the economic condition of the petitioner and signify in each case whether the latter has a right under this rule to a full or partial remission of the tax imposed. There is a strict duty to state correctly the true condition of the petitioner; otherwise there would arise an obligation of repairing the injury. Nevertheless the validity of the dispensation or favor is not affected by error or fraud in this respect.

In the conclusion of the *Normae Communes* there are some provisional regulations concerning the amount of taxes to be paid, the Holy See reserving to itself authority to make hereafter special enactments on this question. Meanwhile for the expedition of Bulls and Briefs, for the Beatification and Canonization of Saints, the charges are to be continued as before; also the taxes which were wont to be paid to the Apostolic Datary and the S. Penitentiary for matrimonial dispensations remain the same. In matrimonial causes of dispensation *super rato,* as well as in others settled by the Congregation on the Sacraments, the rules heretofore observed by the S.

Congregation of the Council are in force. For other rescripts of favors, indults, or dispensations, the tax to be paid to the Holy See is ten lire or two dollars for major rescripts; five lire or one dollar for minor rescripts. The remuneration due to the agent will be six lire for major rescripts and three for minor ones. The S. Congregation de P. Fide is to continue the practice of exempting from charges.

Normae Peculiares

A part of the legislation relating to the Roman Curia is contained in the *Normae Peculiares,* published on the 29 September, 1908, three months after the publication of the Constitution *Sapienti consilio, Lex Propria,* and *Normae Communes.* This consists of nine chapters in which the treatment of ecclesiastical causes with the Departments of the Curia is explained, and in particular special features in each of the Congregations, Tribunals, and Offices of the Curia. These matters will be found in the *A. A. S.*, N. I, pp. 59-108. In the document as might be inferred from the title, *Normae Peculiares,* there are special enactments relating to each of the Congregations, Tribunals, and Offices. The reader will also find some general regulations

concerning the manner in which the Congregations of the Curia conduct their deliberations. When a question is to come before a plenary Congregation, i. e. the entire body of the Cardinals composing the Congregation, there is prepared an *official sheet* containing a summary of the subject and the *dubia* which are to be discussed at the meeting. When questions of a serious and difficult character relating to law or fact arise, the opinion of one or two Consultors is to be obtained and inserted in this official sheet. These printed sheets are to be distributed to the Cardinals of the Congregation ten days before the date for holding the meeting, in order that there may be sufficient time for a careful study of the matter in hand. Some days previous to the meeting of a Congregation there is often convoked a meeting of the Consultors attached to the Congregation so as to ascertain their opinions upon the questions to be brought before the full Congregation.

At the meeting of the Congregation itself the one who opens the discussion is the Cardinal Ponent or Relator; in his absence, the Cardinal who comes next in precedence, and so on in the same order. The Cardinal Prefect, or his substitute, is the last to speak. The resolutions of the Congregation are to be written, read, and ap-

proved during the meeting; and the same rule is to be observed in the meetings of the Consultors. The resolutions of the Congregation are to be published, unless there be grave reason to the contrary. A printed or written copy must be given to each Cardinal of the Congregation resident in Rome. If any party feels aggrieved over the opinion of the Congregation, he may within ten days ask for a new hearing of the question. The Cardinal Prefect after consulting the Congress of the Congregation may grant or refuse the petition in his discretion. But should the answer or resolution of the Cardinals contain the clause—*amplius non proponatur*—it requires a full Congregation to grant the benefit of a new hearing. The resolutions of the Congregations are to be brought to the Sovereign Pontiff for approval. In doing so a digest of the question, if it be a complicated one, must be written, as well as the decision of the Congregation, together with the date and name of the Relator. If the Roman Pontiff deem it proper to alter the resolution of the Congregation, the members are to be informed at their next meeting.

From the foregoing remarks upon the *Lex Propria, Normae Communes,* and *Normae Peculiares,* it may be seen that these Pontifical

pronouncements complete the legislation contained in the Constitution *Sapienti consilio*. Except in so far as the Roman Curia is affected by one or other of these documents, it remains the same as before November, 1908.

We now pass to consider a few remaining provisions of the Constitution.

The Congregation "Reverendae Fabricae S. Petri"

This Congregation was instituted by Clement VIII in 1593 to administer the funds received for the Basilica of St. Peter in Rome and to superintend the rebuilding and decoration of that edifice. In 1506 Julius II had begun to re-erect this Basilica and appealed for the necessary funds, granting indulgences to those who contributed alms for this purpose. Clement VII constituted a college of sixty men charged with the rebuilding of the Basilica and the administration of its funds. This College was suppressed at the time when Clement VIII founded the Congregation, appointing the Cardinal Archpriest of the Basilica as Prefect of the Congregation. The Congregation received jurisdiction to decide contentious and criminal cases, as well as to receive funds and apply them to

the Basilica. Commissioners were appointed by the Congregation in various provinces with delegated authority to hear and decide causes relating to pious donations and bequests, the right of appeal from their decisions to the Congregation itself being allowed. Pius IX in 1863 discontinued the appointment of Commissioners and also withdrew from the Congregation the exercise of judicial procedure. However, it still retained even until the new legislation of 1908 extensive powers concerning pious legacies and obligations of Masses ("pia legata et onera Missarum"). Thus if persons were excessively burdened in executing pious bequests, the Congregation had power to permit for just cause a *composition,* so that the petitioner might by the payment of a sum to the Basilica of St. Peter be relieved from the obligation of giving the entire amount required according to the terms of the testamentary disposition. We are not here concerned with proving the undoubted authority the Church possesses over pious bequests or with showing the necessity of sometimes exercising this authority.

The composition granted by the Holy See could be exercised for just reason either by way of satisfaction for past burdens, or of liberations from future ones, arising from pious bequests.

This Congregation could also release from the obligation of pious legacies on condition that provision was made for them by the payment of a sum to the Ordinary. Besides, this Congregation was likewise empowered to grant for just cause a reduction of the obligation of Masses founded *in perpetuum,* or for a time, as also to relieve from certain conditions attached to the foundation of such Masses, e. g. that they should be celebrated at a particular altar, fixed hour, or day. It granted leave also to defer beyond two months the celebration of Masses, for which individual stipends (*manualia*) were given, when no time was determined by the donor of the stipends.

UNDER THE NEW LEGISLATION

The Congregation of the Basilica of St. Peter does not according to the new legislation possess any of those faculties just referred to regarding pious legacies and Masses. The settlement of such questions belongs now exclusively to the Congregation of the Council. Hence it is to this latter Congregation alone that petitions on those subjects should be addressed. The Congregation of the Basilica of St. Peter is now limited in its work according to the terms of

the Constitution *Sapienti consilio* to "the domestic affairs of the Basilica of the Prince of the Apostles." It continues to receive and administer the funds of this Basilica.

Roman Commissions

There are two kinds of commissions employed by the Roman Pontiff in the government of the Church. Some of these are connected with the Roman Congregations. Thus the Congregation of Propaganda has, as was noted in a previous chapter, a commission attached to it, entitled, *Pro Unione Ecclesiarum dissidentium;* while the Congregation of Rites has several commissions, the Liturgical, the Historico-liturgical, and the Commission for the Sacred Chant. There are other commissions appointed by the Pope, which are altogether independent of any of the Congregations and of any of the other Departments of the Curia. Of this latter class the Constitution *Sapienti consilio*—names four: the Commissions for the promotion of the study of Scripture, and of History; for the administration of Peter Pence; for the Preservation of the Faith in the City, remain in their former state. A few words on each of these Commissions will suffice.

COMMISSION FOR THE PROMOTION OF THE STUDY OF SCRIPTURE

The late Sovereign Pontiff Leo XIII instituted this Commission on 30 October, 1902. The purpose of its institution is set forth in the Apostolic Letters of that date, entitled, *Vigilantiae studiique memores,* wherein the Pontiff refers to the members of the Commission in the following terms: "Qui eam sibi habeant provinciam, omni ope curare et efficere, ut divina eloquia et exquisitiorem illam, quam tempora postulant, tractationem passim apud nostros inveniant, et incolumia sint non modo a quovis erroris afflatu, sed etiam ab omni opinionum temeritate." In the same document the Sovereign Pontiff reminds the members of the Commission how they must especially work to the end that Catholics do not attach too much importance to the views of the heterodox, as if the genuine sense of the Scripture is to be chiefly sought from a parade of erudition. Referring to the proper interpretation of the Scripture he declares "legitimum divinae Scripturae sensum extra Ecclesiam neutiquam reperiri, neque ab eis tradi posse qui magisterium ipsius auctoritatemque repudiaverint."

The entire document is deserving of careful

perusal, even now many years after its publication. Whilst it directly relates to the duties of the Biblical Commission, it contains useful instruction for Catholic writers, some of whom have been inclined, even since the condemnation of Modernism, to give undue weight to the views of the so-called higher critics.

The Biblical Commission consists of certain Cardinals chosen by the Sovereign Pontiff, along with Consultors of various nations selected to aid them in their deliberations. Already the Commission has issued several Decrees; but as these are familiar to our readers, there is no need to refer to them in detail.

COMMISSION ON HISTORICAL STUDIES

This Commission, as its name implies, was instituted for the purpose of promoting the study of History. After the Vatican Archives were thrown open, Leo XIII established this Commission through the Brief *Saepenumero considerantes,* 18 August, 1883, and appointed three Cardinals to be members of it. Afterwards the number was increased and some specialists were added as Consultors.

COMMISSION FOR THE ADMINISTRATION OF PETER PENCE

This Commission like the two Commissions above referred to, was established by Leo XIII. It belongs to this Commission to receive and administer the alms of the faithful given for the temporal support of the Sovereign Pontiff. After the Supreme Head of the Church was despoiled of all his possessions, it became more necessary than before that the faithful should contribute toward paying the expenses unavoidably incurred in the government of the Church. It is the duty of the Office of the Apostolic Camera, as we have seen, to take care of and administer the property and temporal rights of the Holy See; but it was also deemed advisable to constitute a Commission to take charge of the alms contributed by the faithful throughout the world and attend to their proper administration. The President of the Commission at present is His Eminence Cardinal Merry del Val.

COMMISSION FOR THE PRESERVATION OF THE FAITH IN ROME

The purpose of this Commission may be ascertained from the *Motu Proprio* of 25 November, 1902, when it was instituted by Leo XIII. Two

years previously the Sovereign Pontiff had written to the Cardinal Vicar of Rome bewailing the fact that heretical temples and schools were erected in the City of Rome for disseminating erroneous views and principles among the faithful there. To remedy this evil a work entitled the Preservation of the Faith was organized and specially approved by the Roman Pontiff. In order to strengthen this organization the Holy Father selected a Committee of five Cardinals to take charge of it; Consultors were also added to give assistance.

THE COMMISSION OF THE APOSTOLIC VISITATION

One other Commission remains to be mentioned. Heretofore there has been a Roman Congregation bearing the title of the Apostolic Visitation, but this Congregation is now superseded and a new Commission of the same name has been appointed to take the place of the Congregation, possessing its rights and functions. It appertains to this Commission to make an annual visitation of the Churches of Rome, to enquire into the fulfilment of the founded Masses and other pious foundations, and to examine the financial condition of the churches and institutions of the City. The functions of this Com-

mission, limited as they are to the City of Rome, are altogether distinct from those of the Consistorial Congregation, to which it belongs to direct Apostolic Visitations in other parts of the Catholic world.

TWO PONTIFICAL RULES FOR THE DEPARTMENTS OF THE CURIA

After naming the independent Commissions of the Holy See, the new Constitution *Sapienti consilio,* proceeds to lay down two rules regarding the Departments of the Curia, the Congregations, Tribunals, and Offices. One of these relates to the subject-matter of deliberation, and the other to the approval required for their decisions. The former rule is expressed in the Constitution as follows: "For all and several of the above-mentioned Congregations, Tribunals, and Offices, let this first of all be a solemn rule, that nothing grave and out of the ordinary be done until it shall have been previously made known to us and to our successors for the time being by the rulers of the same." The meaning of this regulation is obvious. Each of the Departments of the Curia has its own peculiar province assigned to it, outside of which it possesses no authority. Even within the province assigned

to a particular Department there is a restriction to be observed, viz. that it cannot treat anything of weighty moment which is outside the ordinary class of business ("nihil grave et extraordinarium"), unless the Moderator has previously informed the Roman Pontiff. It is not, therefore, forbidden for a Department to deal with questions of grave importance without previously acquainting the Pope, provided such questions are not outside the usual order of business transacted by the Department.

The second rule laid down for the Department of the Curia sets forth the necessity of obtaining the approval of the Roman Pontiff for each decision or response. The rule is thus expressed in the new Constitution: "All sentences whatsoever of grace or justice require Pontifical approval, exemption being made of those for which special faculties have been granted to the rulers of the said Offices, Tribunals and Congregations, and always excepting the sentences of the Tribunal of the Sacred Rota and of the Apostolic Segnatura passed by them within their proper sphere."

From the foregoing enactment it is clear that according to the general rule all the decisions of each Department of the Curia demand the Pope's approval for their validity. Some deci-

sions or decrees relate to matters of grace, such as dispensations and indults. Others involve the rights of different parties (questions of justice). But to whatsoever class they relate, they lack the required force, until the Sovereign Pontiff approves them. This general rule has two exceptions, which are expressly mentioned in the Constitution. One is when the Roman Pontiff has already conceded to any Department of the Curia the faculty of granting certain favors, dispensations, etc., the Moderator of the Department may exercise the faculty without receiving Pontifical approval for each act. The other exception relates to the decisions of the Sacred Rota and of the Apostolic Segnatura. Whatever may be the sentence or decision of either of these Tribunals acting within its respective province, no approval of the Roman Pontiff is required for the same.

Having seen the general regulation requiring Pontifical approval for the decisions of the Roman Curia, it may not be amiss here to draw attention to certain forms frequently employed in issuing these decisions. When questions are proposed to one of the Roman Congregations for solution, the answers do not contain a superfluous expression, nor, as a rule, are there any reasons given for the answers. Sometimes the

answer is given in one word, for instance, *affirmative,* or *negative,* and the meaning of the answer becomes evident from the question proposed. On some occasions there is added the clause, *et amplius,* to signify that the matter was fully examined and that the petition is not to be again admitted. Sometimes the answer is *nihil* or *nihil esse respondendum,* which means that the question was considered incongruous. Thus when it was asked from the Sacred Penitentiary whether in the case of extreme necessity absolution could be given by telephone, the answer (1 July, 1884) was *nihil esse respondendum.*

Another formula employed is *dilata,* which signifies that the question is deferred to another meeting. The reason for such an answer might be that further information was required before giving a reply, or that there was not time to arrive at a definite answer.

Another form used for reply is *in decisis* or *in decretis,* each meaning that the resolution passed already upon the matter must be maintained; in other words, the petition presented is refused and the matter will not be reopened.

Gaudeat impetratis signifies that the petitioner should be content with what he has obtained, and need not expect anything more in the matter of which there is question.

Lectum or *relatum* signifies that the question was not admitted; *non expedire* is a mild form of refusing the petition; *reponatur* or *non proposita* signifies that no reply is given, and that the question or petition is placed in the archives of the Congregation to which it was addressed. *Consulat probatos auctores* is set down when the Congregation gives an answer to the question proposed, but refers the petitioner to approved theologians or canonists.

Another form not infrequently occurring is *ad mentem.* This phrase signifies that, besides the solution of the *dubium,* something is to be added by way of interpretation. Sometimes the interpretation is made known only to those to whom the solution is directed. At other times the *mens* or interpretation is published along with the solution. Of this latter class there is an instance quite familiar to the clergy of the United States, viz. a decision dated 18 January, 1896, communicated to the Apostolic Delegate regarding the three Secret Societies, the Knights of Pythias, Odd Fellows, and the Sons of Temperance. It had been asked whether Catholics might not be permitted to retain their names in the register of these forbidden Societies, and to continue payment of their dues. The answer was: *"Generatim loquendo, non licere, et ad mentem."*

The *mens* of the Congregation was immediately published, viz. that under certain conditions verified in a given case, a Catholic could continue connection with any of those three Societies.

One other form may be worthy of mention here, viz. *Facto verbo cum SSmo.* This signifies that the matter needs to be laid before the Sovereign Pontiff, either because the Congregation possesses no authority to concede the favor, or because the matter demands special solemnity. Thus in regard to *dubia* concerning the interpretation of the *Ne temere* decree there have been at least four responses in which the Sacred Congregation of the Council used a clause of this kind—*facto verbo cum SSmo.* One of these instances was when this Congregation (27 July, 1908) granted to the Ordinaries of China the faculty of dispensing in cases of extreme necessity from the substantial form of Matrimony, as also the power to subdelegate this faculty to the rectors of missions in that country; the Congregation in the answer added—*facto verbo cum SSmo.*

The Roman Curia "Vacante Sede Apostolica"

There is one remaining topic to be referred to before closing this commentary on the Roman Curia under the Constitution *Sapienti consilio.* In what has been said concerning the Departments of this Curia we have considered them as they are in operation during the lifetime of the Sovereign Pontiff, or *Sede plena.* We have yet to see what are the functions of the Curia when the Pontiff dies, or *Sede vacante.* Upon this subject the Constitution *Sapienti consilio,* briefly says: When it [the Apostolic See] is vacant, the laws and rules laid down in the above-mentioned Constitution *Vacante Sede Apostolica* are to hold." It has been already seen in treating of the Apostolic Camera that the Roman Pontiff ordains that its Prefect, the Cardinal Chamberlain, should in the fulfilment of his duties during the vacancy of the Holy See be guided by the rules contained in the Constitution *Vacante Sede Apostolica,* dated 25 December, 1904. In the words just quoted he again refers to the same document in order that it may be ascertained what are the duties of the Curia during the vacancy of the Holy See. It will be therefore useful to examine what are the provisions of this

Constitution so far as they relate to the Departments of the Curia. We are not just now concerned with the duties of the Cardinals in the Conclave held for the election of a new Pontiff, so that it will not be necessary for our present purpose to study the entire Constitution *Vacante Sede Apostolica,* but only so far as it relates to the faculties and functions of the Curia.

THE CONGREGATIONS OF THE CURIA "VACANTE SEDE APOSTOLICA"

The Congregations of the Curia are not extinguished with the death of the Sovereign Pontiff. But while they continue to exist during the interregnum, there is to be noticed some limitation in their authority. When the Pope is living, there are some powers which the Congregation can exercise by virtue of special faculties granted to the Prefects or Secretaries of these Congregations; there are also some powers which, as was noticed before, are exercised *facto verbo cum SSmo,* or *ex audientia SSmi.* Now all these faculties cease with the death of the Pope. There are other faculties which belong to the Congregations habitually and permanently, such as are accorded to them according to the Constitution *Sapienti consilio;* these faculties,

which may be termed ordinary, continue with the Congregations until the election of a new Pontiff. However, even in the use of these ordinary faculties the Congregations are expected to exercise them in matters of only minor importance. When matters of grave moment arise, these should be deferred until the new Pontiff is elected. But if they are so urgent as to demand immediate settlement, the College of Cardinals is empowered to commit the questions to the Prefect and some other Cardinals of that Congregation to which the Roman Pontiff would likely have committed the settlement of these questions. This settlement is provisional, remaining in force only until the election of the Pontiff.

OTHER DEPARTMENTS OF THE CURIA "SEDE VACANTE"

In the third Chapter of the Constitution *Vacante Sede Apostolica,* certain enactments are made regarding other Departments of the Roman Curia. The Office of the Cardinal Chamberlain continues after the death of the Roman Pontiff and we have already seen what are his chief duties during the interregnum. The office of the Cardinal Prefect of the S. Penitentiary, or *Penitentiarius major,* as he is called,

continues also after the death of the Pontiff. If the office of Prefect of the S. Penitentiary should become vacant, e. g. by death, it is to be filled temporarily by a vote of the College of Cardinals, and the person appointed is to hold office until the election of the new Pontiff. The Constitution *Vacante Sede Apostolica* does not prescribe in particular the functions of the S. Penitentiary during the vacancy of the Holy See; but it sets down that they are the same as those mentioned by Benedict XIV in the Constitution *Pastor bonus* (13 April, 1774), NN. 51-55. In examining this document there are several points deserving of notice.

1. The Major Penitentiary and the officers under him have the same authority as they would have had if the Pope were still living. 2. The Tribunal of the S. Penitentiary has jurisdiction during the vacancy to absolve from all censures whatsoever; however, in regard to those censures from which the S. Penitentiary could not absolve during the lifetime of the Pontiff, the absolution from *censures* now imparted is only provisional, i. e. there is an obligation of having recourse to the new Pontiff within a determined interval. 3. The faculty of granting *dispensations* is conceded to the S. Penitentiary in a similar manner, viz. on condition that recourse be

had to the future Pontiff for those cases in which this Tribunal would not have had authority were the Pope still alive. 4. The S. Penitentiary has no authority in the *forum externum* when the Holy See is vacant, just as at present, since the Constitution *Sapienti consilio* came into force, its jurisdiction is confined to the *forum internum.* There is, however, an exception to the rule just mentioned, viz. that when the Holy See is vacant, the S. Penitentiary has jurisdiction *in foro externo* in favor of Regulars, especially apostates and fugitives; also in the case of female religious the S. Penitentiary may depute extraordinary confessors among those approved by the Ordinary for hearing the confessions of those religious. From the foregoing faculties it is apparent how the Sovereign Pontiff desires to make ample provision for the forum of conscience during the interregnum.

OTHER ALTERATIONS IN THE CURIA "SEDE VACANTE"

It is set down in the same Constitution *Vacante Sede Apostolica,* that the offices of Vice-Chancellor, Pro-Datary, and Secretary of State respectively, cease at the death of the Roman Pontiff in accordance with the Consti-

tution of Pius IV *In eligendis.* It should be here noticed that according to the new legislation upon the Roman Curia the President of the Apostolic Cancellaria is no longer to be called Vice-Chancellor, but Chancellor, and similarly the President of the Datary is no longer to be called Pro-Datary, but Datary. Accordingly these two offices of the Chancellor and Datary cease at the death of the Roman Pontiff. The office of the Secretary of State also ceases at the same time; but the Secretary of the College of Cardinals fulfils the duties. If this latter office become vacant, it is filled by a vote of the College of Cardinals. It may be added that the Cardinal Vicar of the City of Rome remains in the discharge of his duties after the death of the Pontiff; if he should die before the election of the Pontiff, his Vicegerent assumes the office, having the same authority as the Cardinal Vicar himself, during the remainder of the interregnum.

In conclusion, it is of interest to note that the College of Cardinals at the death of the Roman Pontiff is much limited in its powers. According to the Constitution *Vacante Sede Apostolica,* that College has no authority or jurisdiction in those matters which belonged to the Pontiff when living, but it is bound to reserve them for

the future Pontiff. The exercise of any such authority would be null and void, save in so far as it is permitted in this Constitution. The College of Cardinals is forbidden to dispose of the rights of the Apostolic See in any way whatsoever, or to attempt to detract from those rights either directly or indirectly. On the contrary the members of the Sacred College are bound to guard and defend those rights. Besides, it is ordained that the laws enacted by the Roman Pontiff cannot be corrected by the College of Cardinals during the interregnum; nor can this College in any respect add to, subtract from, or dispense from those laws. This enactment refers in a special manner to the Pontifical Constitutions made for regulating the election of the Roman Pontiff. However, if any doubt should arise about the interpretation of the enactments contained in the Constitution *Vacante Sede Apostolica,* or about the manner in which they are to be reduced to practice, it belongs to the Sacred College of Cardinals alone to pronounce an opinion thereon.

ADDENDA

In the following Addenda it is proposed to supplement the Commentary given in the preceding pages. After the publication of the Articles in the "Ecclesiastical Review," beginning in December 1908 and continued in occasional numbers till October 1910, many new Decrees upon the Roman Curia were issued by the Holy See. For the most part these Decrees consisted of responses of the Sacred Consistorial Congregation regarding the competence of other Departments of the Curia, relative to matters not previously determined by the Constitution *Sapienti consilio,* or by other Pontifical documents relating to this Constitution. In order to obtain an adequate view of the present condition of the Roman Curia, these Decrees should be understood. There are other documents which have emanated from the Holy See, such as *Regulae servandae* in the Sacred Rota, published in the Acta Apostolicae Sedis, 25 October, 1910, and the *Regulae servandae* in the Supreme Tribunal of the Apostolic Segnatura published

in the same Official Bulletin on the 15th of March of the present year, 1912. Although it may not be necessary for every ecclesiastic to know all the ordinances contained in these two documents, yet we ought at least be informed regarding their general import.

That this portion of the Addenda might be accurately prepared, a careful study has been given to those Decrees and *Regulae;* as also to the works of recent writers upon the Roman Curia, Ojetti, Capello, Monin, etc. It is hoped that those who prefer to read a work in English upon the Roman Curia may find in this volume information both reliable and up to date.

Another portion of the Addenda will be of an entirely different kind. It will refer to the method of communicating with the Departments of the Roman Curia. Some young priest may say to himself: "I am not going to be sending petitions to the Holy See: such matters concern Chancellors, or Vicars-General, or the Bishops themselves, but not me." At any time he might find, for instance, in hearing confessions, that a case arises which ought to be sent to the Holy See, e. g. to the Tribunal of the Sacred Penitentiary, or to the Congregation of the Holy Office, or of the Sacraments, or to some other Roman Congregation. There is no need

here to go into detail in order to explain how this necessity may occur. We are, perhaps, too readily inclined to think that we are armed with sufficient authority to deal with certain cases, when neither we nor even our Bishops possess the requisite faculty.

In connection with this second portion of the Addenda, or as a branch of it, there will be given formulae, which will be found helpful in preparing petitions for the Departments of the Roman Curia according to their subject-matter. This section of the work, it is expected, will be found useful, not only when a petition is to be sent to some Department of the Roman Curia, but also when some petition is to be sent to the Ordinary, or his representative. Our Bishops in the United States are possessed of extensive faculties from the Holy See, and in forwarding petitions for dispensations or faculties it is highly expedient to employ some method similar to that employed in addressing one of the Departments of the Roman Curia.

CHAPTER XII

The Competence of the Sacred Congregations

In the Commentary upon the Sacred Congregations it was stated (page 32) that whenever doubts arise regarding the competence of any Congregation to decide a particular question submitted to it, the S. Consistorial Congregation is empowered to solve such doubts. As a matter of fact during the past few years *dubia* of this kind have on various occasions been proposed to this Congregation. In referring to these *dubia* it seems preferable to follow the order in which the Sacred Congregations are enumerated in the *Sapienti consilio*.

THE SACRED CONGREGATION OF THE HOLY OFFICE

When treating of this S. Congregation in our Commentary (page 20) it was stated that it would continue to exercise authority over questions concerning the Pauline Privilege, *Dispar-*

itas cultus, and *mixta religio* in matrimonial cases. It was also set down that this Congregation should decide questions relating to the *doctrine* of the Sacraments. Since the publication of the Constitution *Sapienti consilio,* there has been considerable controversy regarding the competence of the Holy Office. The words of the Constitution immediately relating to this point are as follows: "Etsi peculiaris Congregatio sit constituta *de disciplina Sacramentorum,* nihilominus integra manet Sancti Officii facultas ea cognoscendi quae circa privilegium, uti aiunt, Paulinum, et impedimenta disparitatis cultus et mixtae religionis versantur, praeter ea quae attingunt dogmaticam de matrimonio, sicut etiam de aliis Sacramentis, doctrinam." Cf. Sap. cons., Cong. S. Off., N. 5.

From these words it is manifest that, while a Congregation entitled *De disciplina Sacramentorum* has been instituted, another Congregation, that of the Holy Office, has authority to decide questions which refer to the Pauline Privilege and the impediments of *disparitas cultus* and *mixta religio* along with doctrinal matters relating to all the Sacraments.

The *Normae peculiares* published three months after the *Sapienti consilio* laid down as follows (cap. 7., Art. 1., N. 6.): "In tractandis

negotiis quae ad Catholicam doctrinam moresque pertineant, et in judicio ferendo de criminibus haeresis allisve suspicionem haeresis inducentibus, atque in iis omnibus quae ad dispensationes ab impedimentis disparitatis cultus et mixtae religionis referuntur, Congregatio Sancti Officii suo more institutoque procedit, sibique propriam consuetudinem retinet, servatis normis in hac lege constitutis, quantum cum necessaria S. Officii disciplina componi possit. Congruenter ad haec, dubia quae circa competentiam Sancti Officii in aliqua re oriri possunt, ipsamet haec Congregatio per se dirimet, servatis semper terminis a Constitutione *Sapienti consilio* praefinitis."

We have here an authoritative statement concerning the subject-matter appertaining to the jurisdiction of the Holy Office. Those questions relating to faith and morals, passing judgment upon heresy and any other crimes causing a suspicion of heresy, granting dispensations from *disparitas cultus* and *mixta religio,* all these functions are to be discharged by the Holy Office according to its own method and practice, while the regulations laid down in the law (*Normae peculiares*) are to be observed so far as is compatible with the discipline of the Holy Office. Then there is subjoined a special faculty not granted to any other Congregation or Depart-

ment of the Roman Curia, viz., that whatever doubts may arise regarding the competence of the Holy Office this Congregation may settle them by itself, observing the terms prescribed in the Constitution *Sapienti consilio.*

Although the above extracts from the *Sapienti consilio* and from the *Normae peculiares* might seem sufficiently explicit upon the subject of which they treat, much controversy has arisen in recent times regarding the precise competence of the Holy Office. Those who wish to understand fully this controversy will find the subject treated by Ojetti in his Commentary, De Romana Curia (p. 53-57); also in Capello (p. 99-104); and in Monin (p. 222-231). After reading what these and other writers, such as Besson and Simier, have written upon the subject, it seems preferable to draw attention to a declaration of the S. Consistorial Congregation, which was published in the *Acta Apostolicae Sedis* of 15 February, 1910. It is needless to say that we are bound to accept this declaration rather than the opinion of any individual writer, however prominent.

While the Holy Office received from the Sovereign Pontiff full authority to solve whatever doubts might arise regarding its own competence, this S. Congregation deemed it expedi-

ent to refer to the Consistorial Congregation for some decision upon the subject. The decision was published in the A. A. S. of 15 February, 1910, and was as follows: "Competentiam S. Officii se extendere ad omnia quae sive directe sive indirecte, in jure aut in facto se referunt ad Privilegium Paulinum et ad praefatas dispensationes. Et ad mentem, quae est: supplicandum SSmum ut statuat ac decernat ut quaelibet quaestio circa praefata matrimonia deferatur Sacrae Congregationi S. Officii, salva huic Sacrae Congregationi potestate, si ita censeat et casus ferat, quaestionem ipsam remittendi ad aliud S. Sedis Officium. SSmus, audita relatione infrascripti Cardinalis Secretarii, resolutionem ratam habuit et confirmavit, mandavitque ut in posterum quaelibet quaestio circa matrimonia mixta deferatur Sacrae Congregationi S. Officii juxta petita, sub lege tamen ut firma semper et in omnibus maneat dispositio Decreti, Ne temere in Art. XI n. 2 et 3 statuta."

According to the foregoing response every question that arises concerning mixed marriages ("circa praefata matrimonia"), whether contracted between Catholics and non-baptized persons, or between Catholics and heretics or schismatics should be referred to the Holy Office, and therefore not to the Congregation of the Sacra-

ments nor to any other Congregation. The Holy Office may, if it judge fit and the cause allow it, remit the question to some other Department of the Roman Curia; or it may itself decide the question forthwith, not referring it to any other Department of the Curia.

It is deserving of notice that in the above decision of the Consistorial Congregation approved by the Sovereign Pontiff the authority of the Holy Office has received some extension beyond what was expressed in the Constitution *Sapienti consilio,* and the *Normae peculiares.* According to that decision *every question* relating to mixed marriages—"quaelibet quaestio circa praefata matrimonia"—is to be referred to the Holy Office: according to the *Sap. cons.* and *Normae pec.* it was questions relating to impediments of *disparitas cultus* and *mixta religio* (*Sap. cons.*), or questions relating to dispensations from impediments of *disp. cult.* and *mixta rel.* (*Norm. pec.*), which were to be referred to the Holy Office. Let us suppose that a question arises about a mixed marriage, i. e. a marriage contracted between a Catholic and an unbaptized person, or between a Catholic and a baptized non-Catholic; let us suppose that the question does not arise on the ground of the impediment of *disp. cult.* or of *mixta rel.,* but on some other ground, e. g.

defect of consent, it cannot now be referred to the Congregation of the Sacraments; while *before* this decision it should be referred to this Congregation of the Sacraments, and not to the Holy Office.

Although the meaning of the response of the Consistorial Congregation may seem clear thus far, there is still a difference of opinion upon the subject among eminent writers. Does the Holy Office according to this response possess authority to decide certain matrimonial causes, viz., those involving mixed marriages and the Pauline Privilege, in a *judicial* manner or only in an *administrative* manner, the general rule being that a S. Congregation has no power to decide *judicially* upon any matter, even though this matter would fall within its province if treated administratively?

Upon the question just proposed there are two opposite opinions. Some there are who hold with Capello, *De Curia Romana* (p. 100 etc.: p. 609), that the Holy Office has authority to deal with all cases of mixed marriages *judicially*. They argue from the Constitution *Sapienti consilio,* where it said in the extract given above—"Integra manet Sancti Officii facultas." Now the faculty possessed by the Holy Office prior to the *Sapienti consilio* was *judicial,* and therefore that

judicial faculty should be assumed to continue. Again, the Holy Office certainly possesses the authority to proceed judicially and *via contentiosa* in questions of heresy, and there is no sufficient reason for denying it this authority in the matter of mixed marriages.

There are others who hold that the Holy Office has no authority to proceed judicially in any matrimonial cause, even after the declaration of the Consistorial Congregation of 15 February, 1910. This is the opinion which Monin in his work *De Curia Romana* published this present year (1912), finally adopts. "Ex omnibus hucusque disputatis circa competentiam S. Officii in causis matrimonialibus fas est, ut videtur, breviter concludere: causae matrimoniales circa matrimonia mixta quocunque ex capite motae, si in linea disciplinari tractari possunt, ad S. Officium pertinent; si vero stricte judiciaria agi debent, remittendae videntur Ad S. Rotae Tribunal, servatis servandis."[1]

While it might seem unavoidable to hold one or other of the opinions just cited, it will be better, both theoretically and practically, to adhere literally to the terms employed by the Consistorial Congregation. What we mean is this. The Holy Office may use its discretion in decid-

[1] Cf. p. 231.

ing matrimonial causes of the kind mentioned (*matrimonia mixta*); it may exercise this discretionary power either by sending the case to the S. Rota, if complicated judicial procedure should be expected; or it may render its decision in such a case after receiving testimony. Even if the Holy Office should determine to transfer the case to the examination and decision of the S. Rota, it will retain authority to decide points of doctrine in the case so transferred to the jurisdiction of the Rota. There seems, however, to be no doubt of the requirement of the Holy See that the Holy Office should not *regularly* assume the function of judicial procedure; but there may be cases in which the Holy Office would give decisions, even though these cases might assume the appearance of judicial trials. If the Holy Office should judge it prudent to examine and decide such cases, we have no doubt that the Sovereign Pontiff would not refuse to ratify its decisions on the ground of incompetency.

Practically, in questions of this kind no difficulty will arise. The Holy Office, when cases are presented to it for settlement, will determine the method of settlement, either judicial, or administrative.

Regarding this Decree of the Consistorial Con-

gregation the Sovereign Pontiff placed one restriction, viz., that the Holy Office in the exercise of its authority concerning mixed marriages should observe the legislation of the *Ne temere* in Art. XI. N. 2 and 3. In the former number (2) of this Article it is ordained that the marriages between Catholics and non-Catholics, whether the Catholics be baptized or not baptized, are invalid unless contracted before a competent priest. In N. 3, of the same Art. XI. it is laid down that two non-Catholics whether baptized or unbaptized are not bound by ecclesiastical law to contract matrimony according to the form prescribed for Catholics, i. e. before a competent priest and witnesses. The only exception to the former enactment is made by the Decree *Provida* for Germany, which came into force on Easter Day, 1906, and has so continued after the *Ne temere*.

CHAPTER XIII

The Sacred Consistorial Congregation

The following *dubia* were proposed to the S. Consistorial Congregation:

I. Utrum restitutio in integrum adversus sententiam alicujus S. Congregationis, editam ante Constitutionem *Sapienti consilio,* sit concedenda ab ipsa sacra Congregatione, quae sententiam tulit, vel a sacra Rota, vel ab Apostolica Signatura.

II. Utrum adjutores Auditorum S. Rotae agere possint munus advocati in aliqua causa, quae agitur apud S. Rotam, vel apud Apostolicam Signaturam.

III. Quaestione aliqua ad sacram aliquam Congregationem delata, et una ex partibus dissentiente quominus ibi res disciplinari seu administrativo modo dirimatur, dubium de competentia ita excitatum, a quonam et quomodo definitiva et inappellabili sententia sit resolvendum

IV. Et si res sit apud S. Rotam, dubium de ejus competentia a quonam et quomodo definitiva pariter et inappellabili sententia sit resolvendum.

The response to the first *dubium* was as follows:

"Ab Apostolica Signatura, de commissione Sanctissimi."

Hence it belongs to the Apostolic Segnatura to grant a *restitutio in integrum* in the case proposed; but a commission of the Roman Pontiff is required for the exercise of this authority of the Supreme Tribunal. When treating of the newest legislation concerning the Apostolic Segnatura, this response of the S. Cons. Cong. will be further considered.[1]

Response to the second *dubium:* "Negative in utroque casu."

It is not permitted for the Assistants of the Auditors in the S. Rota to discharge the office of Advocates in cases which are being conducted before the S. Rota or before the Apostolic Segnatura.

Response to the third *dubium:* "Servetur dispositio *Normarum peculiarium Ordinis* (seu Regolamento), cap. I, num. 3, et cap. III, num. 10. Quod si Congressus dubitet de sua com-

[1] Cf. p. 255, etc.

petentia, rem deferat ad S. Congregationem Consistorialem pro dubii definitione, juxta num. 2, cap. I. earundem *Normarum*. Si vero Congressus decernat, causae cognitionem ad se competere, et una ex partibus recursum ad SSmum Dominum contra Congressus resolutionem interponat, de commissione ipsius SSmi quaestio de competentia pariter a S. Congregatione Consistoriali dirimatur."

There are two enactments of the *Normae peculiares* here referred to, which are to be our guide. The former says: "In expostulationibus ad Sanctam Sedem, si libellus ad S. Rotam delatus est, Decanus cum duobus Auditoribus primis; si ad aliquam Congregationem, ordinarius ejusdem Congressus, de quaestionis natura videbunt, utrum res administrationis ac disciplinae tramite tractanda sit, an summo jure agendum. Horum primum si accidat, judicium quaestionis reservatur sacrae Congregationi cui competit, ad normam Const. *Sapienti consilio*. Alterum si fiat, quaestio ad proprios judices ac sua tribunalia deferatur ad normam juris communis definienda, salvo semper proprio Signaturae Apostolicae procedendi modo."

The second enactment above referred to simply declares that when the administrative and disciplinary method is adopted by a Sacred Con-

gregation with the assent, or without the dissent of the parties interested, these parties are not allowed to institute a judicial action about the same cause; still less can this be allowed after the cause has been discussed and the sentence has been given; however, the S. Congregation may at any stage of the proceedings transfer the case to the ordinary judges.

If the Congress of a S. Congregation should doubt about its own competence, the doubt is to be settled by the S. Cons. Congregation. If the Congress decide that it possesses jurisdiction, and one of the interested parties have recourse to the Sovereign Pontiff against the decision of the Congress, the question of competence is to be settled by commission of His Holiness through the Consistorial Congregation.

Response to fourth *dubium:* "Firmo quod S. Rota, quum sit appellationis tribunal, videre nequit de instantiis in primo gradu, nisi ex commissione SSmi, in casu quo recursus penes S. Rotam interpositus fuerit contra aliquem Episcopi seu Ordinarii actum, de quo disceptetur vera ne sit sententia, an potius decretum seu dispositio disciplinaris; dubium de competentia dirimatur iisdem, cum proportione, servatis regulis ac in praecedenti responsione."

The response to this fourth dubium lays down

the principle that since the S. Rota is a tribunal of appeal, it cannot take cognizance of causes of *first* instance, unless by commission of the Roman Pontiff in a case in which recourse was interposed with the S. Rota against an act of the Ordinary, when it is disputed whether there was a formal sentence or a disciplinary decree; otherwise a *dubium* of competence in the S. Rota is to be resolved according to the same rules as in the preceding response (N. 3.).

The responses to the four *dubia* cited above were approved by the Sovereign Pontiff on 11 June, 1909.

THE S. CONGREGATION ON THE DISCIPLINE OF THE SACRAMENTS

I

Relative to the faculty of dispensing Princes from matrimonial impediments a Decree was issued by order of the Sovereign Pontiff through the S. Congregation of the Sacraments, 7 March, 1910. "Itaque Sacra haec Congregatio SSmi D. N. Pii Papae jussa faciens, de expresso ipsius mandato atque Ejusdem auctoritate declarat, dispensationes a quibusvis impedimentis matrimonium sive dirimentibus

sive impedientibus, quae regibus ac regiae stirpis principibus erunt concedendae, Sedi Apostolicae speciali modo esse reservatas, ita ut ab hujus potestatis usu excludantur Ordinarii omnes et alii quilibet, in quavis dignitate constituti; eandemque potestatem in facultatibus cuilibet et quavis forma concessis, nullatenus esse comprehensam."

Hence if a temporal Sovereign or Prince of royal extraction require a dispensation from any impediment of matrimony, such dispensation is specially reserved to the Apostolic See so that neither the Ordinary nor any other, whatsoever may be his dignity, can grant it. The Roman Pontiff, if the dispensation is to be given, will grant it Himself directly, or He may make usė of the Congregation of the Sacraments for this purpose.

II

The following *dubium* was proposed to the S. Consistorial Congregation:

" Utrum post Constit. *Sapienti consilio* spectet ad S. Congregationem de disciplina Sacramentorum concedere facultatem legendi tres Missas Nativitatis Domini, noctu, in sacellis publicis et ecclesiis, quae ad hoc privilegio apostolico indigent, cum distributione SSmae Eucharistiae;

an potius hoc tribuendum sit Sacrorum Rituum Congregationi."

The answer was: "Affirmative ad primam partem, negative ad secundam" (11 March, 1910).

It will be noticed that the foregoing *dubium* has reference to an altogether different question from the one already settled by a *Motu proprio* of His Holiness, 1 August, 1907. By this latter Decree it was granted: "ut in omnibus et singulis sacrarum virginum monasteriis clausurae legi subjectis aliisque religiosis institutis, piis domibus et clericorum seminariis, publicum aut privatum Oratorium habentibus cum facultate Sacras Species habitualiter ibidem asservandi, sacra nocte Nativitatis D. N. J. C. tres rituales missae vel etiam, pro rerum opportunitate, una tantum, servatis servandis, posthac in perpetuum quotannis celebrari Sanctaque Communio omnibus pie petentibus ministrari queat. Devotam vero hujus vel harum missarum auditionem omnibus adstantibus ad praecepti satisfactionem valere eadem Sanctitas Sua expresse declarari mandavit."

Accordingly in all religious communities or seminaries having an oratory where the most Blessed Sacrament is habitually reserved, three Masses may be said on the Feast of the Nativity

of Our Lord beginning at midnight, and Holy Communion may be distributed at each Mass; and devout assistance at any such Mass is a fulfilment of the ecclesiastical precept.

The decision of the Consistorial Congregation given above refers to churches and public oratories intended for the faithful generally; for these there is no general permission granted to say three Masses in immediate succession on Christmas night nor to distribute Holy Communion that night. The Consistorial Congregation has decided that if such a favor be asked, the faculty of granting the petition belongs now to the S. Cong. of the Sacraments, not to the S. Cong. of Rites.

III

The two following *dubia* were proposed to the S. Consistorial Congregation regarding competence in Votive Masses: "1. Utrum ad Sacram Congregationem de disciplina Sacramentorum spectet concedere facultatem legendi Missam votivam, praeterquam coeco aut coecutienti, de quibus in normis Romanae Curiae (pars 2 cap. 7, art. 3. n. 10-g), etiam senio confectis vel alio morbo laborantibus; 2. utrum eadem Sacra Congregatio in superius memoratis casibus con-

cedere valeat facultatem non solum legendi Missam votivam B. M. Virginis aut pro defunctis, sed etiam alias Missas votivas a S. Sede adprobatas: haec Sacra Congregatio Consistorialis, praehabito voto Consultoris, omnibusque sedulo perpensis, respondendum censuit: affirmative ad utrumque" (16 Aug., 1910).

In accordance with the first response it pertains to the S. Cong. on the Sacraments to grant permission of reading a Votive Mass not only in behalf of priests who are blind or of defective sight, but likewise of those priests who are old or laboring from any other disease. The second response declares that it pertains to this same Congregation of the Sacraments in the cases mentioned in the first *dubium* to grant the faculty of reading a Votive Mass of the B. V. M. or pro Defunctis, but also of reading any other Votive Mass approved by the Holy See.

CHAPTER XIV

The Sacred Congregation of the Council

I

The following *dubium* was proposed to the S. Cons. Congregation regarding those holding ecclesiastical property:

"Utrum facultas admittendi ad compositionem eos qui bona ecclesiastica quaecunque occuparunt, aut detinent, privative tribuenda sit sacrae Congregationi Concilii, an potius, quando agitur de bonis ad Ordines aut religiosas familias pertinentibus, eadem facultas reservanda sit Sacrae Congregationi de Religiosis."

The response of the S. Cons. Cong. was: "Affirmative ad primam partem, negative ad secundam (8 July, 1909).

It is worthy of notice that before giving the above decision a Consultor of the Cons. Congregation in his *votum* observed that the Holy See in granting compositions wishes primarily to consult for the conscience and the spiritual wel-

fare of the parties holding ecclesiastical property, and secondarily to consult for the temporal good of pious causes, churches, and Religious Orders. The same Consultor added that sufficient provision is made for the rights of others, since there is no composition granted without the consent of the parties immediately concerned, or at least without the Sovereign Pontiff supplying for the want of this consent.[1]

II

The Competence of the S. C. C. regarding Confraternities and Pious Unions.

" Utrum competentia super confraternitates a Constitutione *Sapienti consilio* tributa sacrae Congregationi Concilii se extendat quoque ad confraternitates et pias uniones quae dependent ab Ordinibus et Congregationibus religiosis, vel erectae sunt in eorum ecclesiis seu domibus; an potius haec reservata sit sacrae Congregationi de Religiosis?"

The answer of the Cons. Cong. was: "Affirmative ad primam partem, negative ad secundam " (9 December, 1909).

[1] Cf. *A. A. S.*, 1909, p. 576.

III

In regard to the faculty of permitting the acquisition of property seized from Religious Orders and Congregations, a *dubium* was proposed to the Consistorial Congregation as follows: "Utrum post Constitutionem *Sapienti consilio,* spectet ad S. C. Concilii, vel potius ad S. C. de disciplina Religiosorum, facultas permittendi Christifidelibus, ut bona acquirant Ordinibus aut Congregationibus religiosis usurpata."

The response was: "Spectare ad Sacram Congregationem Concilii" (14 March, 1910).

IV

Concerning the authority of settling questions relating to Taxes of Episcopal Curias, the following *dubium* was proposed to the Consistorial Congregation:

"Utrum post Const. *Sapienti consilio* adhuc spectet ad S. C. Concilii adprobare taxas Curiarum Episcopalium, necnon dirimere quaestiones omnes quae ad eas referuntur; an vero haec facultas reservanda sit huic S. C. Consistoriali."

The response: "Affirmative ad primam partem, negative ad secundam" (15 April, 1910).

In the Third Plenary Council of Baltimore, N. 294, it is ordained that each Bishop, either in Synod or otherwise, after hearing his Consultors should make such enactments as may appear most suitable for clergy and laity in regard to *jura stolae* and the tax for ecclesiastical ministrations, keeping in mind that the poor are to receive these ministrations gratis. It is added that whatever tax may be fixed in Synod should be referred to Rome for the approval of the Holy See. According to the Decree given above it is to the S. C. of the Council, not to the Consistorial Congregation, this question should be sent.

V

Regarding competence for the interpretation of ecclesiastical laws four *dubia* were proposed to the Consistorial Congregation:

"1. An post ordinationem Romanae Curiae a Pio PP. X. Statutam, Sacrae Congregationi Concilii adhuc competat exclusiva facultas authentice interpretandi omnia Concilii Tridentini decreta, quae ad morum reformationem, disciplinam aliaque hujusmodi pertinent, Summo Pontifice consulto;

"2. An facultas authentice interpretandi Concilii Tridentini decreta aliasque leges ecclesi-

asticas vi Constitutionis *Sapienti consilio* sit singulis Sacris Congregationibus commissa secundum propriam cujusque competentiam, salva Romani Pontificis approbatione;

"3. An eadem potestas competat sacris tribunalibus Romanae Rotae et Signaturae Apostolicae;

"4. An iisdem sacris tribunalibus competat saltem facultas decreta Concilii Tridentini aliasque leges ecclesiasticas interpretandi juridice in casibus particularibus, ita nempe ut jus faciant inter partes in causa."

The answers were as follow:

"Ad I et III *negative;* ad II et IV *affirmative*" (11 February, 1911).

From these answers it appears that the Congregation of the Council has no longer exclusive authority of interpreting all the Decrees of the Council of Trent; the authentic interpretation of the Decrees of Trent and of other ecclesiastical laws appertains to each S. Congregation according to its special competence determined by the Constitution *Sapienti consilio,* the approbation of the Roman Pontiff being required for such interpretation.

The two tribunals of the S. Rota and the Apostolic Segnatura have authority to interpret juridically in particular cases so that their in-

terpretation becomes obligatory upon the parties concerned.

VI

"Proposito dubio, ad quam S. Congregationem spectet dispensare a jurejurando, emisso ab antiquis Collegii Urbani de Propaganda Fide aliorumve Collegiorum alumnis, qui subsunt dioecesibus ad jus commune nuper deductis, quique facultatem petunt de dioecesi cui juramento obstringuntur in aliam transeundi; S. Congregatio Consistorialis, re mature perpensa, juxta Constitutionem *Sapienti consilio* respondit: *spectare ad S. Congregationem Concilii"* (7 January, 1909).

THE SACRED CONGREGATION DE PROPAGANDA FIDE

There were twelve *dubia* proposed by the S. Cong. of Propaganda to the S. Consistorial Congregation. The following answers which were published on 15 January, 1909[1] are here briefly given:

1. Apostolic Vicariates which belong to ecclesiastical Provinces withdrawn from the jurisdiction of the Propaganda Congregation by the Constitution *Sapienti consilio,* are still subject

[1] Cf. A. A. S., Vol. 1., p. 148–152.

to this Congregation so long as they remain in the condition of Vicariates Apostolic. It is expedient, however, to erect dioceses in place of those Vicariates as soon as possible and to bring them under the common law of the Church. The United States affords an example of having one of its Vicariates, viz. Brownsville, recently erected into the Diocese of Corpus Christi in the Province of New Orleans.

2. The S. Cong. of Propaganda may through an arrangement with the S. Cong. of the Sacraments continue to send formulas of faculties to India, Tonkin, China, Japan, Australia, Oceanica and other countries of the kind. Many of these faculties relate to matrimony. Neither the United States, Canada, nor indeed any part of America is named in the list given above so that in these countries faculties should be granted by the respective Congregations entitled to grant them in accordance with the *Sapienti consilio* and the subsequent ordinances confirmed by the Sovereign Pontiff regarding the Roman Curia.

3. The S. Cong. of Propaganda is still empowered to confer the title of Missionary Apostolic *ad honorem* upon *its own subjects* in the customary formula of faculties.

4. While the S. Cong. of Prop. should refer

to the S. C. of Rites questions which relate to the discipline of the Sacred Rites according to the manner prescribed in the *Sap. cons.,* this ordinance does not extend to faculties relating to Mass, Divine Office, etc., which the S. C. of Rites or the S. C. of Prop. used to bestow. These latter do not now belong to the S. C. of Rites.

5. The S. C. of Prop. should refer to the S. Cong. for Religious questions which relate to religious Congregations of men and of women in accordance with the prescriptions of the *Sap. cons.,* even when their Rules or Constitutions were approved by the S. C. of Prop.

6. The S. Cong. for the Affairs of the Oriental Rites, which is now united to the S. C. of Prop. is empowered to grant matrimonial dispensations in *disparitas cultus* and *mixta religio;* but there is no exception made in the Pauline Privilege, which belongs exclusively to the Holy Office, even among those who follow the Oriental Rites.

It may be well here to mention incidentally what are meant by *Oriental Rites.* It does not signify all the religious Rites practised in those countries which are usually called Oriental, since in some of these countries the Latin Rite is used. It means those Rites which are different from the

Latin Rite, wherever such Rites are employed, in Asia, Europe, Africa, or elsewhere. The description of Oriental Rites or Churches given by Benedict XIV in his Constitution *Allatae nobis* (26 July, 1755) holds good to-day as at the date of its publication. It includes four Rites, Greek, Armenian, Syriac, and Coptic, so that if certain people follow one or other of these Rites, they are said to belong to an Oriental Church or to an Oriental Rite. There are thus four species of Oriental Rites.

First.—The *Greek* Rite, which has the following subdivisions: (*a*) The *pure Greek* Rite observed by the faithful who having no proper Hierarchy depend upon the Apostolic Delegates of Athens and Constantinople. (*b*) There is the *Greek Rumenian* Rite observed in four Dioceses of Hungary. (*c*) *Greek Ruthenian,* in ten Dioceses of Austria, Hungary and Russia. (*d*) *Greek Bulgarian,* in the Apostolic Vicariates of Thrace and Macedonia. (*e*) *Greek Melchite,* in thirteen Dioceses of Syria.

Second.—The *Armenian* Rite exists in twenty Dioceses—seventeen in Asia Minor and Persia; two in Europe (Lemberg and Artwin); and one in Alexandria (Egypt).

Third.—The *Syriac* Rite has several subdivisions, viz. *Syriac Pure* and *Syro-Maronite,* which

are observed in about twenty Dioceses of Syria; *Syro-Chaldaic,* in twelve Dioceses of Babylon; and *Syro-Malabar,* in three Vicariates Apostolic of the East Indies.

Fourth.—The *Coptic* Rite is twofold: the *Egyptian,* which exists in Alexandria, Hermopolis, and Thebes: the *Aethiopian,* which exists in Abyssinia.[1]

7. The seventh *dubium* proposed by the S.C. of Prop. refers to Acts of Councils celebrated in a territory subject to the Propaganda Congregation. The response given is that those Acts are not to be remitted to the S. Cong. of the Council; it belongs, therefore, to the S. C. of Prop. to give them the requisite recognition with the approval of the Roman Pontiff.

8. Although it is not obligatory upon those officials who were in office before 3 November, 1908, to take the oath prescribed by the general law of 29 June, 1908, still it is fitting that all take it.

9. The Colleges of North America, Ireland, and Scotland will henceforth depend upon the S. Consistorial Congregation. The oath to be taken by their students is to be reformed according to a new formula. They do not, therefore, depend any longer upon the S. C. of Prop.

[1] Cf. Hierarch. Catt.: Monin, p. 288.

10. The students of the Colleges of North America, Canada, Ireland, etc., who are being educated *ex jure fundationis* in the Urban College of Propaganda, are bound henceforth to take the oath prescribed by Urban VIII and afterwards by Alexander VII (20 July, 1660) for all the students of the Urban College. The oath is now taken according to a formula rearranged after consultation with the Cardinal Prefect of the Propaganda.

11. The concession of dimissorial letters for promotion to Sacred Orders of the students in the North American, Irish, and Scotch Colleges belongs to the S. Cong. of Propaganda. This S. Congregation, when necessary, will alter the *titulus missionis* into *titulus servitii ecclesiae.*

12. In regard to the students of the Urban College of Propaganda, who belong to Provinces and Dioceses now separated from the S. Congregation of Propaganda, the Cardinal Prefect of the S. C. of Prop. has changed for these students the *titulus missionis* into the *titulus servitii ecclesiae.*

CHAPTER XV

The Sacred Rota

In our Commentary on the Sacred Rota (p. 142) reference was made to the *Lex Propria,* which treats of the constitution or personnel of the Tribunal, of its competence and of its method of giving judgment. Attention should now be directed to another document which was afterwards published, viz. 4 August, 1910, and entitled *Regulae Servandae in Judiciis apud Sacrae Romanae Rotae Tribunal Approbatae et Confirmatae a Pio Papa X.* By way of introduction to these *Regulae,* Monsignor Lega, the Dean of the S. Rota, briefly explains the occasion of their publication. The *Lex propria* accompanying the reorganization of the Roman Curia laid down certain judicial rules of a general character for the Tribunal of the S. Rota. From the time when this Tribunal began to exercise its functions in accordance with these general rules, it was necessary to adopt certain particular regulations concerning judicial acts to be

performed by it. These regulations received a temporary approval of the Sovereign Pontiff *ad experimentum* on 7 September, 1909. After these regulations continued to be employed for nearly a year, they were with some amendments confirmed so that the Roman Pontiff on the 2 August, 1910, ordered them to be observed as having the force of law. These regulations as finally approved by His Holiness are found in the *Acta Apostolicae Sedis* for October 25, 1910 (p. 784-850). It is not necessary to our present purpose to give any commentary of the 238 sections of this code of regulations. Let it suffice to enumerate here the subjects treated in this collection. If the reader desires any further information upon any particular detail of the legislation, he can consult the text as found in the A. A. S.

The legislation contained in this document comprises nine *tituli* or headings, some of these containing several subdivisions.

Tit. 1.—Relating to the introduction of the cause, to the citation, and to the concordance of *dubia* (Sect. 1-42).

Tit. 2. Exhibition of documents and of defences; also oral discussion (Sect. 43-80).

Tit. 3. —Incidents.

Ch. 1.—Proposition of incidental questions (Sect. 81-85).

Ch. 2.—Incidents to be proposed by memorial or *dubia* (Sect. 86-100).

Tit. 4.—*Instructio processus.*

Ch. 1.—Office of Auditor to whom the *instructio* is entrusted (Sect. 101-113).

Ch. 2.—Witnesses (Sect. 114-119).

Ch. 3.—Experts (Sect. 120-136).

Ch. 4.—Statements (*positiones*) and judicial interrogations (Sect. 137-148).

Ch. 5.—The Oath—*decisorium, suppletorium, aestimatorium in litem* (Sect. 149-164).

Ch. 6.—*Accessus judicialis*—inspection of places, objects, etc., about which controversy arises (Sect. 165-172).

Tit. 5.—Sentences (Sect. 173-192).

Tit. 6.—Judicial expenses, estimate of proceeds and damages, settling accounts.

Ch. 1.—Taxation of judicial expenses (Sect. 193-200).

Ch. 2.—Estimate of proceeds and damages; settling accounts (Sect. 201-206).

Tit. 7.—Exemption from judicial expenses: reduction of expenses: gratuitous patronage (Sect. 207-218).

Tit. 8.—Renunciation of plea or count, of judicial action, and of other acts of the case (Sect. 219-223).

Tit. 9.—Appeal from sentences and from rotal decrees (224-238).

Whoever studies the various sections of the above Regulations will be satisfied that they cover a vast amount of matter and have been elaborated with the most diligent care.

THE APOSTOLIC SEGNATURA

In the Commentary on the Constitution *Sapienti consilio,* the competence of this Supreme Tribunal was indicated (p. 150). Its chief function is to investigate and decide upon questions relating to the Auditors of the S. Rota and to the sentences pronounced by these Auditors. The *Lex propria* prescribes its mode of procedure as well as its special province. However, a recent document was published with the approval of the Sovereign Pontiff (6 March, 1912) relating to the same Tribunal. It is entitled *Regulae servandae in Judiciis apud Supremum Signaturae Apostolicae Tribunal approbatae et confirmatae a Pio Papa X.*

These Regulae of the Apostolic Segnatura are intended to serve a purpose similar to that intended by the Regulae of the S. Rota above referred to. His Eminence Cardinal Vincent Vannutelli in his Introduction to these Regulae

states that they were used by way of experiment and were carefully revised by their Eminences, the Cardinals who constitute the personnel of this Supreme Tribunal, and were afterwards submitted for Apostolic sanction. The Sovereign Pontiff in ratifying them declared that they were to have the force and authority of a *Lex peculiaris* for the Supreme Tribunal of the Apostolic Segnatura.

Like the Regulations of the S. Rota published two years previously, these Regulations of the Apostolic Segnatura consist of certain *tituli,* each *titulus* containing a number of articles or sections, as follows:

Tit. 1.—Questions which are laid before this Supreme Tribunal (Articles 1-11).

Tit. 2.—Rite of procedure before the Apostolic Segnatura (12-63).

These Regulations of the Apostolic Segnatura comprise nearly twenty pages of the Acta Apostolicae Sedis and are found in Vol. 4, N. 5. (15 March, 1912).

It is not proposed to give any detailed description of those sixty-three articles relating to the new legislation of the Apostolic Segnatura: it will, however, be expedient to draw attention to the first article of this document, in which the competence of this Supreme Tribunal is some-

what extended beyond what was set forth in the *Lex propria,* Can. 37.

The first article runs as follows: "Supremum Signaturae Apostolicae Tribunal, juxta Legis Propriae Can. 37. videt tanquam sibi propria et praecipua: (*a*) de exceptione suspicionis contra aliquem Auditorem, ob quam ipse recusetur: (*b*) de violatione secreti, ac de damnis ab Auditoribus allatis eo quod actum nullum vel injustum in judicando posuerint; (*c*) de querela nullitatis contra sententiam rotalem; (*d*) de expostulatione pro restitutione in integrum adversus rotalem sententiam, quae in rem judicatam transierit. Praeter hosce casus, *ex commissione SSmi.* judicat etiam de restitutione in integrum contra sententiam ab aliqua S. Congregatione emissam."

When this Article is compared with Can. 37 of the *Lex propria,* it becomes apparent that the four clauses—*a, b, c,* and *d* expressed in the Art. —are exactly the same as found in the *Lex propria* of 29 June, 1908. Accordingly the province now assigned to the Apostolic Segnatura includes what was assigned to it in 1908. But there is an important addition found in the first Art. viz. "Praeter hosce casus, ex commissione SSmi," etc. Here, then, we may perceive an extension of the authority previously conferred upon the Supreme Tribunal of the Apostolic Segnatura.

In examining the scope of this extension it is proper to recall the following *dubium* which was proposed to the S. Consistorial Congregation: "Utrum restitutio in integrum adversus sententiam alicujus S. Congregationis, editam ante Constitutionem *Sapienti consilio,* sit concedenda ab ipsa S. Congregatione, quae sententiam tulit, vel a Sacra Rota vel ab Apostolica Signatura." The answer of the S. Cons. Congregation, approved by the Roman Pontiff, 11 June, 1909, was "Ab Apostolica Signatura, de commissione Sanctissimi."

According to this decision the Tribunal of the Apostolic Segnatura might by commission of the Sovereign Pontiff grant a *restitutio in integrum* against a sentence issued by any S. Congregation before the Constitution *Sapienti consilio* came into force (3 November, 1908). It is worthy of notice that this answer of the S. Cons. Congregation refers to a sentence issued *before* the Constitution *Sapienti consilio,* not to any other. Whether the sentence mentioned in the response should be a *judicial* sentence, or include every sentence or decision of any of the Sacred Congregations, judicial or administrative, is not evident. We see no sufficient reason for limiting the signification of the term to *judicial* sentences; it seems more in accord with the laws of inter-

pretation to take the expression in its wider signification so as to include both judicial and administrative sentences. This is also the signification in which the word is employed in the Constitution *Sapienti consilio,* where after the enumeration of the S. Congregations, Tribunals, and Offices it is declared: "Sententiae quaevis, sive gratiae via, sive justitiae, pontificia approbatione indigent," etc. Some writers, however, seem to confine the signification of the word to *judicial* sentences.[1]

Now in the final clause of Art. 1 of the Regulations for the Supreme Tribunal of the Apostolic Segnatura there is no limitation of authority such as is implied in the response of 1909. In other words the authority of the Apostolic Segnatura may now be exercised not only concerning sentences of a S. Congregation issued *before,* but also *after* November, 1908.

That there should be some remedy against the decision of a S. Congregation, as is here supplied by the Supreme Tribunal of the Apostolic Segnatura, is not difficult to understand. If a S. Congregation issued a Decree upon a matter within its competence, this Decree would be obligatory upon the parties concerned in the case. It might happen that this Decree was based upon

[1] Cf. Monin p. 859.

some document which was subsequently proved to be false or adulterated: or it might happen that some document, public or private, was found, by which a new fact decisive in the case was demonstrated. It is clear that there should be some means of rescinding such a Decree. Now, according to the last clause of Art. 1 of the New Regulations of the Apostolic Segnatura, it belongs to this Supreme Tribunal with the commission of the Roman Pontiff to reverse the Decree of a S. Congregation and to grant full compensation to the party against whom the Decree of the S. Congregation had been given.

CHAPTER XVI

Communication with the Holy See

Under the title: *Ordo servandus in Sacris Congregationibus, Tribunalibus, Officiis Romanae Curiae* (Cf. Appendix), there is one division called *Normae communes.* In the tenth chapter of these Normae there is the following heading: *De ratione adeundi SS. Officia cum iisque agendi generatim.* It is well to give special attention to this subject in order to have a clear view of the method of holding communication with the Holy See.

Formerly, before the reorganization of the Curia in 1908, access to the Holy See on the part of the ordinary individual was somewhat limited; but now every Catholic is free to have recourse to any Department of it whenever he wishes. In the first number of the first section of the tenth chapter above referred to, we read: "Christi fideli cuique patet aditus ad Sanctae Sedis Officia, servata rite forma quae decet, et

facultas est cum iisdem agendi per se de suis negotiis."

According to this regulation each of the faithful may hold communication with any Department of the Roman Curia. He can do so personally, or he can employ an advocate. If an advocate be employed, he must be chosen from those approved for this purpose. If one desires to use the services of a proxy or procurator, he has liberty to do this; but he must conform to certain reasonable regulations set down in chapter IX of the *Normae communes* (Cf. Appendix).

A person may have recourse by letter to any of the Departments of the Curia without the necessity of obtaining any permission or commendation from his Ordinary; nor does he need the assistance of a procurator. It is to be noted, however, that there is no permission for *telegraphic* communication with a Department of the Roman Curia, unless in grave necessity when the case is urgent and cannot otherwise be transacted. When there is question of one of the common faithful, it is supposed that it is about his own business—"de suis negotiis"—he holds communication with the Curia. This restriction is not laid down for Ordinaries. These may make application to the Roman Curia not only

regarding matters which relate to themselves, but also regarding what may relate to their dioceses, or to any of their subjects.

For the speedy transaction of business between the Holy See and the Ordinary, it is expedient that the latter have an agent or procurator appointed with the conditions required by the *Normae communes* Chapter IX (Cf. Appendix). If the Ordinary should wish to expedite a particular affair without the knowledge of his agent, he should give notice to the particular Department to which the affair belongs, or in which it is to be transacted. In such cases the Ordinary assumes the obligation of paying expenses for the transmission of letters or of other things, as also of paying the prescribed taxes.

In order that a person may legitimately and permanently discharge the office of Agent for a Bishop and his Diocese, he should have his name inscribed in the list of Agents, which is kept in the office of the Secretary of the Consistorial Congregation. Whoever wishes to become an Agent should exhibit his petition to the Assessor of the Consistorial Congregation along with the reasons for granting the petition.

The chief functions of a diocesan Agent are according to the *Normae communes* as follows:

"Curare ut epistolarum commercium inter Apostolicam Sedem et Episcopum, de omnibus dioecesis negotiis, rite et cum fide procedat; ea referre, de quibus Officio alicui praepositi, in rebus ad ipsum pertinentibus, eum sint percontati; in cognitione versari negotiorum, quae apud varia Sanctae Sedis Officia evolvuntur spectantque dioecesim, cujus habet ipse procurationem."

For an Agent it is required that he be of the Catholic faith, be of good reputation, and have a sufficient knowledge of Latin and of Canon Law. If he be in Sacred Orders, he should have from the office of the Cardinal Vicar of Rome permission to live in the City; if he be a religious, he should have the leave of the Superior General of the Order to which he belongs.

There are *private* Agents who may be employed for special business. These may be deputed, provided that they are Catholics, of good reputation, and not belonging to the Department in which the business is to be transacted. Each private Agent should have from his employer a commission in writing, which for the security of the Department is to be kept among its Records; or at least the Moderators of the Department should possess some testi-

mony of the requisite qualifications of such Agent.

When a private individual wishes to have recourse to the Roman Curia, it is advisable for him to appoint an Agent, if he cannot personally appear in the Department. Indeed, unless there be some special reason to the contrary, for instance, the secret nature of the transaction, it is useful to have a commendatory letter from the Ordinary, when there is question of obtaining some particular favor or dispensation. By means of this letter the Department of the Curia will be better enabled to judge whether it be expedient to grant or refuse the petition.

FORM OF PETITIONS TO THE ROMAN CURIA

Relative to the form in which petitions should be addressed to the Roman Curia the following points are to be noted:

1. Let the matter of the petition be clearly expressed, and in concise terms.

2. Let the reasons for granting the petition or dispensation be exactly and fully set forth, avoiding, however, all circumlocution.

3. Let the name of the petitioner be correctly given—Christian name, or names, as well as the family name, the parish and diocese to which

the petitioner belongs, and every particular necessary, so that the response may reach the person for whom it is intended.

4. When the petition is sent to the S. Penitentiary, the real name is not expressed, but a fictitious name such as Titius, or Bertha. Let it, however, be distinctly stated what is the *name* and *address* of the person to whom the rescript or answer is to be directed. Often this would be the confessor of the person in whose behalf the petition was sent.

5. In the interior the letter may be addressed *Beatissime Pater;* or it may be addressed to the Cardinal Prefect of the Department for which the petition is intended—*Eminentissime Princeps,* or *Eminentissime Domine.*

6. Upon the outside of the envelope the letter should be addressed to the Prefect or Secretary of the Department intended. Two S. Congregations have the Sovereign Pontiff Prefect, viz. the Consistorial Congregation and the Holy Office. When a communication is sent to either of these Congregations the inscription will respectively be—*All' Eminentissimo Cardinale Segretario della S. Congregazione Consistoriale, Palazzo della Cancelleria, Roma.—All' Eminentissimo Cardinale Segretario del S. Officio, Palazzo del S. Officio, Roma.*

If the communication is to be sent to any of the other S. Congregations, it is inscribed as follows according to the name of each Congregation—*All' Eminentissimo Cardinale Prefetto della S. Congregazione del Concilio,* or *dei Riti, or degli Studi,* or *dei Religiosi,* or *dei Sacramenti,* or *dell' Indice—Palazzo della Cancelleria, Roma.*

For a letter addressed to the S. Penitentiary the inscription is—*All' Eminentissimo Cardinale Pentenziere Maggiore, Palazzo del' S. Officio, Roma.*

If the letter be addressed to the Secretariate of State, it is inscribed thus—*All' Eminentissimo Cardinale Segretario di Stato di SS. Pio X, Vaticano, Roma.*

For the Tribunals of the S. Rota and Apostolic Segnatura the inscription is respectively—*Al Tribunale Ecclesiastico della Sacra Rota, Via della Dataria, Roma: Al Supremo Tribunale Ecclesiastico della Segnatura Apostolica, Via della Dataria, Roma.*

It is expedient to inscribe the names *Rome, Italy,* in the vernacular, as well as in Italian (Roma, Italia) parenthetically so that the post officials cannot possibly mistake the destination of the document.

LANGUAGE OF PETITIONS TO THE ROMAN CURIA

In the Departments of the Roman Curia the languages formerly employed were Latin, Italian, and French. Now as appears from the *Normae peculiares,* chapter 6, n. 5, any of the following languages is admitted—Latin, Italian, English, French, Spanish, German, and Portuguese. Ecclesiastics do well to employ Latin, the language of the Church; but in sending petitions to the Curia they may use any of the languages here named.

EXCLUDED FROM FAVORS OF THE HOLY SEE

It is to be noted that some are excluded from receiving dispensations or favors from the Holy See. For these it would be useless to send a petition to any Department of the Roman Curia, either by themselves or by another. In Chapter III, n. 6, of the *Normae peculiares* (Cf. Appendix) it is set down that all favors and dispensations conceded by the Holy See after 3 November, 1908, are valid even for those under censure, unless these "nominatim excommunicati sint, aut a Sancta Sede nominatim pariter poena suspensionis a divinis multati."

There are here two exceptions mentioned. When a person is excommunicated by name, he is incapable of receiving a favor or dispensation from the Holy See. This kind of excommunication can be inflicted by the Sovereign Pontiff, or by another competent ecclesiastical superior. A person is to be considered as *nominatim excommunicatus,* when the Superior, e. g. the Ordinary, expressly naming him declares that he is excommunicated; whether the excommunication was incurred only when the declaration was communicated, or previously, it does not matter.

Under the head of suspension one cannot receive any favor or dispensation from the Holy See so long as he is *nominatim* suspended *a divinis* by the Holy See. Notice here the difference between *excommunicati* and *suspensi.* That a person be incapable of receiving a favor or dispensation from the Holy See on account of *suspension,* it is required that it should have been inflicted by the Holy See itself. Besides it is only *general* suspension which induces this privation. If, therefore, one were suspended from *order,* not from *jurisdiction,* or vice versa, he would not be incapable of getting a dispensation; but if he be suspended both from *order* and *jurisdiction,* i. e. *a divinis,* and if such suspension

be inflicted by the Holy See, he could get no favor or dispensation from the Roman Curia: while if suspension *a divinis* were inflicted by the Ordinary, not by the Holy See, the suspension would not produce this privation.

CHAPTER XVII

Formulas of Petitions

We now subjoin formulas of petitions to the Departments of the Roman Curia, which may be found useful to some of our readers. They are taken from the excellent work of Capello—*De Curia Romana,* Vol. 1 (a. 1911). In drafting petitions to the Roman Curia it will be often necessary to explain more fully particular cases than is done in these formulas: similarly, the reasons for granting the petitions will sometimes require a fuller exposition.

FORMULAE

Beatissime Pater,

N. N. presbyter dioecesis . . . humillime provolutus ad genua Sanctitatis Vestrae, enixe rogo ut orationi . . . (inferius positae, vel his litteris adjunctae) fidelibus universis corde saltem contritis ac devote recitaatibus indulgentia centum dierum, semel in die lucranda benigne

concedatur. Pedes Sanctitatis Vestrae reverenter deosculans, ea qua par est devotione ac obedientia permaneo.

Sanctitatis Vestrae humillimus filius
N. N.

Beatissime Pater,

N. N. ad pedes S. V. provolutus, humiliter petit ut quaedam de Ecclesiae thesauro indulgentia tribuatur Christifidelibus, qui in defunctorum suffragium versiculos recitaverint *Requiem aeternam*, etc.

N. N.

In forms such as the above the petitioner should give his full name in place of N. N. At the conclusion he should give his name and address so that the answer or rescript of the Holy See may reach the sender or other party, who is to receive the rescript. These two petitions should be addressed to the S. Congregation of the Holy Office, to which now belongs the granting of indulgences.

Beatissime Pater,

N. N. nuper conversa est ad fidem Catholicam. Maritus ipsius longe distat, negotiationis causa, nec facilis patet accessus, cum inhonestam vitam ducere a longo jam tempore incoeperit. Neo-conversa humillime supplicat Sanctitati Vestrae ut, hac de causa, dispensetur ab interro-

gationibus faciendis pro applicatione Privilegii Paulini.

N. N.

Many of our bishops have authority to dispense from the interpellation for the application of the Pauline Privilege so that there would often be no need in this country to have recourse to the Holy See. Hence a priest who has to deal with a case of this kind should ascertain whether his Ordinary possesses the faculty to dispense from the interpellation before making application to the Holy Office.

Beatissime Pater,

Episcopus . . . dioecesis . . . humiliter ad genua Sanctitatis Vestrae provolutus, petit ut, attentis peculiaribus adjunctis, seu senili aetate ac infirma corporis valetudine benigne dispensetur a suscipienda visitatione sacrorum Liminum. Pedes Sanctitatis Vestrae reverenter deosculans ea qua par est devotione atque obedientia permanet Sanctitatis Vestrae humillimus.

N. N.

S. CONGREGATION OF THE SACRAMENTS

Beatissime Pater,

N. N. presbyter dioecesis . . . ob infirmam valetudinem in lecto decumbens, enixe rogat ut

Sanctitas Vestra dignetur dispensationem concedere a lege jejunii eucharistici, ad effectum bis saltem in hebdomada SSmum Sacramentum recipiendi, cum ob peculiarem morbum jejunus nullatenus remanere possit.

N. N.

NOTE.—The priest in the foregoing petition might not need a *special* permission in order to receive Holy Communion without observing the Eucharistic fast. Already (7 December, 1906) the Sovereign Pontiff granted general permission —"ut infirmi qui jam a mense decumberent absque certa spe ut cito convalescant, de confessarii consilio SSmam Eucharistiam sumere possint semel aut bis in hebdomada, si agatur de infirmis qui degunt in piis domibus, ubi SSmum Sacramentum adservatur," etc. If the conditions set down in this general indult be verified, the priest could of course receive Holy Communion twice a week without making any application to Rome.

Beatissime Pater,

N. N., presbyter dioescesis . . . nonnullis abhinc annis in morbum gravissimum incidit; convalescens factus, aciem oculorum coepit paulatim amittere, ita ut nunc coecus omnino sit. Qua de causa enixe rogat ut Sanctitas Vestra

dignetur facultatem concedere legendi Missam votivam B. M. Virginis aut pro defunctis.

N. N.

Beatissime Pater,

Ad pedes Sanctitatis Vestrae humiliter provolutus, enixe rogo ut mihi licentia concedatur adservandi SS. Eucharistiae Sacramentum in oratorio privato tempore autumnali, cum ecclesia sacramentalis longe distet, et grave mihi sit tanto solatio ruri privari, quod ex praesentia reali Christi animus percipit.

N. N.

Beatissime Pater,

N. N., professor in Seminario theologico Dioecesis . . . et Ecclesiae cathedralis canonicus poenitentiarius, humiliter postulat solutionem ad haec dubia; 1. an validum censeri debeat matrimonium, quando mulier in eo contrahendo interius excludit redditionem debiti; 2. an valida sit ordinatio, quando quis, externe accedens ad sacros Ordines suscipiendos, interius tamen positive dissentiat.

N. N.

THE S. CONGREGATION OF THE COUNCIL

Beatissime Pater,

N. N. Dioecesis . . . sacerdos integritate morum atque ingenio clarus, gravi morbo correptus, coecutiens factus est. Ex medicorum con-

sultu, se abstinere tentur a lectione cujuslibet generis, ne morbus pejor evadat. Hinc per me N. N. . . . ipse humillime petit commutationem recitationis Officii divini cum aliis precibus ad arbitrium Sanctitatis Vestrae.

N. N.

Beatissime Pater,

N. N., e vita functus anno . . . legatum perpetuum Missarum instituit in Ecclesia . . . Dioecesis . . . Plurimis de causis redditus hodiedum nullo modo sufficiunt pro Missis celebrandis juxta numerum ac conditiones pii testatoris. Quapropter humiliter peto ut Sanctitas Vestra dignetur reducere Missas ad numerum . . . juxta eleomosynam saltem synodalem, absque onere eas cantandi.

N. N.

THE S. CONGREGATION FOR RELIGIOUS

Beatissime Pater,

N. N. sodalis religiosus monasterii . . . petit humiliter ut Sanctitas Vestra dignetur commutare, ob oculorum debilitatem, divinum Officium cum alia prece, ex medici consultu.

N. N.

Beatissime Pater,

Humillime provolutus ad pedes Sanctitatis Vestrae, enixe rogo ut N. N. regulari S. Benedicti . . . in Monasterio . . . degenti, dispen-

satio concedatur a lege jejunii servanda, ob corporis maximam debilitatem.

N. N.

Beatissime Pater,

Precor humiliter ut Sanctitas Vestra mihi dignetur dispensationem largiri a canonica aetate ut rite recteque promoveri valeam ad sacrum Ordinem presbyteratus.

N. N.

THE S. CONGREGATION OF THE INDEX

Beatissime Pater,

N. N. ad pedes Sanctitatis Vestrae devotissime provolutus, humiliter petit facultatem legendi ac retinendi libros prohibitos, exceptis excipiendis.

N. N.

Beatissime Pater,

Humiliter provolutus ad pedes Sanctitatis Vestrae, enixe rogo ut facultas mihi concedatur permittendi lectionem librorum a Sede Apostolica prohibitorum iis personis, quae ex prudenti meo judicio nullum spirituale damnum sint passurae ex tali lectione.

N. N.

Beatissime Pater,

N. N. bibliopola in oppido . . . humiliter a Sanctitate Vestra facultatem postulat ut tuta

conscientia librorum prohibitorum venditionem peragere valeat, debitis de more cautelis adhibitis.

N. N.

THE S. CONGREGATION OF RITES

Beatissime Pater,

Ad osculum Sanctitatis Vestrae humiliter provolutus, nomine ac mandato Illustrissimi atque Reverendissimi Episcopi Dioecesis . . . sequens dubium Sanctitati Vestrae benigne enodandum propono:

An nuptialis benedictio extra Missam dari possit? Et quatenus *negative,* an diuturna contraria consuetudo sustineri quaeat.

N. N.

THE S. CONGREGATION OF STUDIES

Beatissime Pater,

N. N., Ordinarius Dioecesis . . . humiliter petit ut Doctoris titulo ad *honorem* condecoretur N. N. hujus Dioecesis presbyter, doctrina, pietate ac moribus praestantissimus, qui in Seminario diocesano tyronibus in spem Ecclesiae adolescentibus diligentissime incumbit, quique plura opera eximii valoris edidit . . .

N. N.

THE TRIBUNAL OF THE S. PENITENTIARY

Eminentissime Domine,

Titius matrimonium cum Berta inivit irretitus impedimento occulto affinitatis ob copulam illicitam cum sorore ejudem habitam. Consulere optans conscientiae suae, per me infra scriptum confessarium humillime petit dispensationem a praedicto impedimento. Dignetur Eminentia Vestra rescribere ad . . .

N. N. Confessarius.

Eminentissime Domine,

Titius et Caia bona fide nuptias inter se contraxere. Impedimentum occultum affinitatis ex copula illicita nunc detegitur, quod ab una tantum parte agnoscitur, altera inscia omnino. Enixe rogo ut Eminentia Vestra dignetur praedictum matrimonium revalidare opportuna dispensatione.

N. N. Confessarius.

APPENDIX

CONSTITUTIO APOSTOLICA

DE ROMANA CURIA

PIUS EPISCOPUS

SERVUS SERVORUM DEI

AD PERPETUAM REI MEMORIAM

Sapienti consilio sa. me. Pontifex Xystus V, Decessorum vestigiis inhaerens eorumque coepta perficiens, sacros Cardinalium coetus, seu Romanas Congregationes, quarum aliquot iam erant ad certa negotia institutae, augeri numero voluit, ac suis quamque finibus contineri. Quare Apostolicis Litteris die XXII mensis Ianuarii an. MDLXXXVII, queis initium, *Immensa,* eiusmodi Congregationes constituit quindecim, ut, " partita inter eos aliosque romanae Curiae magistratus ingenti curarum negociorumque mole," quae solet ad Sanctam Sedem deferri, iam necesse

non esset tam multa in Consistorio agi ac deliberari, simulque possent controversiae diligentius expendi, et celerius faciliusque eorum expediri negotia, qui undique, sive studio religionis ac pietatis, sive iuris persequendi, sive gratiae impetrandae, aliisve de causis ad Summum Pontificem confugerent.

Quantum vero utilitatis ex sacris his Congregationibus accesserit sive ad ecclesiasticam disciplinam tuendam, sive ad iustitiam administrandam, sive ad ipsos Romanos Pontifices relevandos, crescentibus in dies curis negotiisque distentos, compertum ex Ecclesiae historia exploratumque omnibus est.

Verum decursu temporis ordinatio Romanae Curiae a Xysto V potissimum per memoratas Apostolicas Litteras constituta, haud integra perstitit. Nam et Sacrarum Congregationum numerus, pro rerum ac temporum necessitatibus, modo auctus est, modo deminutus; atque ipsa iurisdictio unicuique Congregationi primitus attributa, modo novis Romanorum Pontificum praescriptis, modo usu aliquo sensim inducto ratoque habito, mutationibus obnoxia fuit. Quo factum est ut hodie singularum iurisdictio, seu *competentia,* non omnibus perspicua nec bene divisa evaserit; plures ex Sacris Congregationibus eadem de re ius dicere valeant, et nonnullae

ad pauca tantum negotia expedienda redactae sint, dum aliae negotiis obruuntur.

Quapropter haud pauci Episcopi ac sapientes viri, maxime vero S. R. E. Cardinales, tum scriptis tum voce, et apud Decessorem Nostrum fel. rec. Leonem XIII, et apud Nos ipsos saepe institerunt ut opportuna remedia hisce incommodis afferrentur. Quod Nos quidem pro parte praestare curavimus datis Litteris die XVII mensis Decembris anno MCMIII, *Romanis Pontificibus:* aliisque datis die XXVIII mensis Ianuarii anno MCMIV, *Quae in Ecclesiae bonum;* itemque aliis datis die XXVI mensis Maii anno MCMVI, *Sacrae Congregationi super negotiis.*

Cum vero in praesenti res quoque sit de ecclesiasticis legibus in unum colligendis, maxime opportunum visum est a Romana Curia ducere initium, ut ipsa, modo apto et omnibus perspicuo ordinata, Romano Pontifici Ecclesiaeque operam suam praestare facilius valeat et suppetias ferre perfectius.

Quamobrem, adhibitis in consilium pluribus S. R. E. Cardinalibus, statuimus ac decernimus, ut Congregationes, Tribunalia et Officia, quae Romanam Curiam componunt et quibus Ecclesiae universae negotia pertractanda reservantur, post ferias autumnales decurrentis anni, hoc est a die

III mensis Novembris MDCCCCVIII, non alia sint, praeter consueta sacra Consistoria, quam quae praesenti Constitutione decernuntur, eaque numero, ordine, competentia, divisa et constituta maneant his legibus, quae sequuntur.

I.—SACRAE CONGREGATIONES

1° CONGREGATIO SANCTI OFFICII

1. Haec Sacra Congregatio, cui Summus Pontifex praeest, doctrinam fidei et morum tutatur.

2. Eidem proinde soli manet iudicium de haeresi aliisque criminibus, quae suspicionem haeresis inducunt.

3. Ad ipsam quoque devoluta est universa res de Indulgentiis, sive quae doctrinam spectet, sive quae usum respiciat.

4. Quidquid ad Ecclesiae praecepta refertur, uti abstinentiae, ieiunia, festa servanda, id omne, huic Sacro Concilio sublatum, Congregationi Concilii tribuitur; quidquid ad Episcoporum electionem spectat, sibi vindicat Congregatio Consistorialis; relaxationem vero votorum in religione seu in religiosis institutis emissorum, Congregatio negotiis sodalium religiosorum praeposita.

5. Etsi peculiaris Congregatio sit constituta *de disciplina Sacramentorum,* nihilominus integra manet Sancti Officii facultas ea cognoscendi quae circa privilegium, uti aiunt, Paulinum, et impedimenta disparitatis cultus et mixtae religionis versantur, praeter ea quae attingunt dogmaticam de matrimonio, sicut etiam de aliis Sacramentis, doctrinam.

2° CONGREGATIO CONSISTORIALIS

1. Duas haec Sacra Congregatio, easque distinctas partes complectitur.

2. Ad primam spectat non modo parare agenda in Consistoriis, sed praeterea in locis Congregationi de Propaganda Fide non obnoxiis novas dioeceses et *capitula* tum *cathedralia* tum *collegiata* constituere; dioeceses iam constitutas dividere; Episcopos, Administratores apostolicos, Adiutores et Auxiliarios Episcoporum eligere; canonicas inquisitiones seu *processus super* eligendis indicere actosque diligenter expendere; ipsorum periclitari doctrinam. At si viri eligendi vel dioeceses constituendae aut dividendae sint extra Italiam, administri Officii a publicis negotiis, vulgo *Secretariae Status,* ipsi documenta excipient et *Positionem* conficient, Congregationi Consistoriali subiiciendam.

3. Altera pars ea omnia comprehendit, quae ad singularum dioecesium regimen, modo Congregationi de Propaganda Fide subiectae non sint, universim referuntur, quaeque ad Congregationes Episcoporum et Concilii hactenus pertinebant, et modo Consistoriali tribuuntur. Ad hanc proinde in posterum spectent vigilantia super impletis vel minus obligationibus, quibus Ordinarii tenentur; cognitio eorum quae ab Episcopis scripto relata sint de statu suarum dioecesium; indictio apostolicarum visitationum, examenque earum quae fuerint absolutae, et, post fidelem rerum expositionem ad Nos delatam singulis vicibus, praescriptio eorum, quae aut necessaria visa fuerint aut opportuna; denique ea omnia quae ad regimen, disciplinam, temporalem administrationem et studia Seminariorum pertinent.

4. Huius Congregationis erit, in conflictatione iurium, dubia solvere circa *competentiam* Sacrarum Congregationum.

5. Huius Sacri Consilii Summus Pontifex perget esse Praefectus. Eique Cardinales *a secretis* S. Officii et *Secretarius Status* semper ex officio accensentur, praeter alios, quos Summus Pontifex eidem adscribendos censuerit.

6. A secretis semper esto Cardinalis a Summo Pontifice ad id munus eligendus; alter ab ipso

erit Praelatus, cui *Adsessoris* nomen, qui idem fungetur munere a secretis Sacri Collegii Patrum Cardinalium, et sub ipso sufficiens administrorum numerus.

7. Consultores huius Congregationis erunt *Adsessor* Sancti Officii, et a *secretis* Congregationis pro negotiis ecclesiasticis extraordinariis, durante munere: quibus accedent alii, quos Summus Pontifex elegerit.

3° CONGREGATIO DE DISCIPLINA SACRAMENTORUM

1. Est huic Sacrae Congregationi proposita universa legislatio circa disciplinam septem Sacramentorum, incolumi iure Congregationis Sancti Officii, secundum ea quae superius statuta sunt, et Sacrorum Rituum Congregationis circa caeremonias quae in Sacramentis conficiendis, ministrandis et recipiendis servari debent.

2. Itaque eidem Congregationi tribuuntur ea omnia, quae huc usque ab aliis Congregationibus, Tribunalibus aut Officiis Romanae Curiae decerni concedique consueverant tum in disciplina matrimonii, uti dispensationes in foro externo tam pauperibus quam divitibus, sanationes in radice, dispensatio super rato, separatio coniugum, natalium restitutio seu legitimatio prolis; tum in disciplina aliorum Sacramentorum, uti

dispensationes ordinandis concedendae, salvo iure Congregationis negotiis religiosorum sodalium praepositae ad moderandam eorumdem ordinationem; dispensationes respicientes locum, tempus, conditiones Eucharistiae sumendae, Sacri litandi, adservandi Augustissimi Sacramenti; aliaque id genus.

3. Quaestiones quoque de validitate matrimonii vel sacrae Ordinationis, aliasque ad Sacramentorum disciplinam spectantes, eadem Congregatio dirimit, incolumi iure Sancti Officii, Si tamen eadem Congregatio iudicaverit huiusmodi questiones iudiciario ordine servato esse tractandas, tunc eas ad Sacrae Romanae Rotae tribunal remittat.

4. Congregationi huic, quemadmodum ceteris omnibus quae sequuntur, erit Cardinalis Praefectus, qui praeerit sacro Ordini, aliquot Patribus Cardinalibus a Pontifice Summo eligendis conflato cum *Secretario* aliisque necessariis administris et consultoribus.

4° CONGREGATIO CONCILII

1. Huic Sacrae Congregationi ea pars est negotiorum commissa, quae ad universam disciplinam Cleri saecularis populique christiani refertur.

2. Quamobrem ipsius est curare ut Ecclesiae praecepta serventur, cuius generis sunt ieiunium (excepto eucharistico, quod ad Congregationem de disciplina Sacramentorum pertinet), abstinentia, decimae, obervatio dierum festorum, cum facultate opportune relaxandi ab his legibus fideles: moderari quae Parochos et Canonicos spectant; item quae pias Sodalitates, pias uniones, pia legata, pia opera, Missarum stipes, beneficia aut officia, bona ecclesiastica, arcas nummarias, tributa dioecesana, aliaque huiusmodi, attingunt. Videt quoque de iis omnibus, quae ad immunitatem ecclesiasticam pertinent. Eidem Congregationi facultas est reservata eximendi a conditionibus requisitis ad assecutionem beneficiorum, quoties ad Ordinarios eorum collatio spectet.

3. Ad eamdem pertinent ea omnia quae ad Conciliorum celebrationem et recognitionem, atque ad Episcoporum coetus seu *conferentias* referuntur, suppressa Congregatione speciali, quae hactenus fuit, pro Conciliorum revisione.

4. Est autem haec Congregatio tribunal competens seu legitimum in omnibus causis negotia eidem commissa spectantibus, quas ratione disciplinae, seu, ut vulgo dicitur, *in linea disciplinari* pertractandes judicaverit; cetera ad Sacram Romanam Rotam erunt deferenda.

5. Congregationi Concilii adiungitur et unitur, qua Congregatio specialis, ea quae *Lauretana* dicitur.

5° CONGREGATIO NEGOTIIS RELIGIOSORUM SODALIUM PRAEPOSITA

1. Haec Sacra Congregatio iudicium sibi vindicat de iis tantum, quae ad Sodales religiosos utriusque sexus tum solemnibus, tum simplicibus votis adstrictos, et ad eos qui, quamvis sine votis, in communi tamen vitam agunt more religiosorum, itemque ad tertios ordines saeculares, in universum pertinent, sive res agatur inter religiosos ipsos, sive habita eorum ratione cum aliis.

2. Quapropter ea omnia sibi moderanda assumit, quae sive inter Episcopos et religiosos utriusque sexus sodales intercedunt, sive inter ipsos religiosos. Est autem tribunal competens in omnibus causis, quae ratione disciplinae, seu, ut dici solet, *in linea disciplinari* aguntur, religioso sodali sive convento sive actore; ceterae ad Sacram Romanam Rotam erunt deferendae, incolumi semper iure Sancti Officii circa causas ad hanc Congregationem spectantes.

3. Huic denique Congregationi reservatur concessio dispensationum a iure communi pro sodalibus religiosis.

6° CONGREGATIO DE PROPAGANDA FIDE

1. Sacrae huius Congregationis iurisdictio iis est circumscripta regionibus, ubi sacra hierarchia nondum constituta, status missionis perseverat. Verum, quia regiones nonnullae, etsi hierarchia constituta, adhuc inchoatum aliquid praeseferunt, eas Congregationi de Propaganda Fide subiectas esse volumus.

2. Itaque a iurisdictione Congregationis de Propaganda Fide exemptas et ad ius commune deductas decernimus—in *Europa*—ecclesiasticas provincias Angliae, Scotiae, Hiberniae, et Hollandiae, ac dioecesim Luxemburgensem;—in *America*—provincias ecclesiasticas dominii Canadensis, Terrae Novae et Foederatarum Civitatum, seu *Statuum Unitorum*. Negotia proinde quae ad haec loca referuntur tractanda in posterum non erunt penes Congregationem de Propaganda Fide, sed, pro varia eorumdem natura, penes Congregationes ceteras.

3. Reliquae ecclesiasticae provinciae ac dioeceses, iurisdictioni Congregationis de Propaganda Fide hactenus subiectae, in eius iure ac potestate maneant. Pariter ad eam pertinere decernimus Vicariatus omnes Apostolicos, Praefecturas seu missiones quaslibet, eas quoque quae

Congregationi a Negotiis ecclesiasticis extraordinariis modo subsunt.

4. Nihilominus, ut unitati regiminis consulatur, volumus ut Congregatio de Propaganda Fide ad peculiares alias Congregationes deferat quaecumque aut fidem attingunt, aut matrimonium aut sacrorum rituum disciplinam.

5. Quod vero spectat ad sodales religiosos, eadem Congregatio sibi vindicet quidquid religiosis qua missionarios, sive uti singulos, sive simul sumptos tangit. Quidquid vero religiosos qua tales, sive uti singulos, sive simul sumptos attingit, ad Congregationem Religiosorum negotiis praepositam remittat aut relinquat.

6. Unitam habet Congregationem pro negotiis Rituum Orientalium, cui integra manent quae huc usque servata sunt.

7. Praefectura specialis pro re oeconomica esse desinit; omnium vero bonorum administratio, etiam *Reverendae Camerae Spoliorum* ipsi Congregationi de Propaganda Fide committitur.

8. Cum hac Congregatione coniungitur Coetus pro *unione Ecclesiarum dissidentium.*

7° CONGREGATIO INDICIS

1. Huius sacrae Congregationis in posterum erit non solum delatos sibi libros diligenter ex-

cutere, eos si oportuerit, prohibere, et exemptiones concedere; sed etiam ex officio inquirere, qua opportuniore licebit via, si quae in vulgus edantur scripta cuiuslibet generis, damnanda; et in memoriam Ordinariorum reducere, quam religiose teneantur in perniciosa scripta animadvertere, eaque Sanctae Sedi denunciare, ad normam Const. *Officiorum,* XXV Ian. MDCCCXCVII.

2. Cum vero librorum prohibitio persaepe propositam habeat catholicae fidei defensionem, qui finis est etiam Congregationis Sancti Officii, decernimus ut in posterum omnia quae ad librorum prohibitionem pertinent, eaque sola, utriusque Congregationis Patres Cardinales, Consultores, Administri secum invicem communicare possint, et omnes hac de re eodem secreto adstringantur.

8° CONGREGATIO SACRORUM RITUUM

1. Haec Sacra Congregatio ius habet videndi et statuendi ea omnia, quae sacros ritus et caeremonias Ecclesiae Latinae proxime spectant, non autem quae latius ad sacros ritus referuntur, cuiusmodi sunt praecedentiae iura, aliaque id genus, de quibus, sive servato iudiciario ordine sive ratione disciplinae, hoc est, uti aiunt, *in linea disciplinari* disceptetur.

2. Eius proinde est praesertim advigilare ut sacri ritus ac caeremoniae diligenter serventur in Sacro celebrando, in Sacramentis administrandis, in divinis officiis persolvendis, in iis denique omnibus quae Ecclesiae Latinae cultum respiciunt; dispensationes opportunas concedere; insignia et honoris privilegia tam personalia et ad tempus, quam localia et perpetua, quae ad sacros ritus vel caeremonias pertineant, elargiri, et cavere ne in haec abusus irrepant.

3. Denique ea omnia exequi debet, quae ad beatificationem et canonizationem Sanctorum vel ad Sacras Reliquias quoquo modo referentur.

4. Huic Congregationi adiunguntur Coetus *liturgicus,* Coetus *historico-liturgicus* et Coetus *pro sacro concentu.*

9° CONGREGATIO CAEREMONIALIS

Haec Sacra Congregatio iura hactenus ipsi tributa integra servat; ideoque ad eam pertinet moderatio caeremoniarum in Sacello Aulaque Pontificali servandarum, et sacrarum functionum, quas Patres Cardinales extra pontificale sacellum peragunt; itemque quaestiones cognoscit de praecedentia tum Patrum Cardinalium, tum Legatorum, quos variae nationes ad Sanctam Sedem mittunt.

10° CONGREGATIO

PRO NEGOTIIS ECCLESIASTICIS EXTRAORDINARIIS

In ea tantum negotia Sacra haec Congregatio incumbit, quae eius examini subiiciuntur a Summo Pontifice per Cardinalem *Secretarium Status,* praesertim ex illis quae cum legibus civilibus coniunctum aliquid habent et ad pacta conventa cum variis civitatibus referuntur.

11° CONGREGATIO STUDIORUM

Est huic Sacrae Congregationi commissa moderatio studiorum in quibus versari debeant maiora athenea, seu quas vocant Universitates, seu Facultates, quae ab Ecclesiae auctoritate dependent, comprehensis iis quae a religiosae alicuius familiae sodalibus administrantur. Novas institutiones perpendit approbatque; facultatem concedit academicos gradus conferendi, et, ubi agatur de viro singulari doctrina commendato, potest eos ipsa conferre.

II.—TRIBUNALIA

1° SACRA POENITENTIARIA

Huius sacri iudicii seu tribunalis iurisdictio coarctatur ad ea dumtaxat quae forum internum,

etiam non sacramentale, respiciunt. Itaque, externi fori dispensationibus circa matrimonium ad Congregationem de disciplina Sacramentorum remissis, hoc tribunal pro foro interno gratias largitur, absolutiones, dispensationes, commutationes, sanationes, condonationes; excutit praeterea quaestiones conscientiae, easque dirimit.

2° SACRA ROMANA ROTA

Quum Sacrae Romanae Rotae tribunal, anteactis temporibus omni laude cumulatum, hoc aevo variis de causis iudicare ferme destiterit, factum est ut Sacrae Congregationes forensibus contentionibus nimium gravarentur. Huic incommodo ut occurratur, iis inhaerentes, quae a Decessoribus Nostris Xysto V, Innocentio XII et Pio IX sancita fuerunt, non solum iubemus " per Sacras Congregationes non amplius recipi nec agnosci causas contentiosas, tam civiles quam criminales, ordinem iudiciarium cum processu et probationibus requirentes " (Litt. Secretariae Status, XVII Aprilis MDCCXXVIII); sed praeterea decernimus, ut causae omnes contentiosae non maiores, quae in Romana Curia aguntur, in posterum devolvantur ad Sacrae Romanae Rotae tribunal, quod hisce litteris rursus in exercitium revocamus iuxta *Legem propriam,* quam

in appendice praesentis Constitutionis ponimus, salvo tamen iure Sacrarum Congregationum, prout superius praescriptum est.

3° SIGNATURA APOSTOLICA

Item supremum Signaturae Apostolicae tribunal restituendum censemus, et praesentibus litteris restituimus, seu melius instituimus, iuxta modum qui in memorata *Lege* determinatur, antiqua ordinatione tribunalium *Signaturae papalis gratiae et iustitiae* suppressa.

III.—OFFICIA

1° CANCELLARIA APOSTOLICA

1. Huic officio praesidet unus ex S. R. E. Cardinalibus, qui posthac Cancellarii, non autem Vice-Cancellarii nomen assumet. Ipse iuxta pervetustam consuetudinem in sacris Consistoriis, ex officio, notarii munere fungitur.

2. Ad Cancellariae officium in posterum hoc unum tamquam proprium reservatur munus, Apostolicas expedire litteras *sub plumbo* circa beneficiorum consistorialium provisionem, circa novarum dioecesium et capitulorum institutionem, et pro aliis maioribus Ecclesiae negotiis conficiendis.

3. Unus erit earum expediendarum modus, hoc est per *viam Cancellariae,* iuxta normam seorsim dandam, sublatis iis modis qui dicuntur per *viam secretam, de Camera et de Curia.*

4. Expedientur memoratae litterae seu *bullae* de mandato Congregationis Consistorialis circa negotia ad eius iurisdictionem spectantia, aut de mandato Summi Pontificis circa alia negotia, servatis ad unguem in singulis casibus ipsius mandati terminis.

5. Suppresso collegio Praelatorum, qui dicuntur *Abbreviatores maioris vel minoris residentiae,* seu *de parco maiori vel minori;* quae ipsius erant munia in subscribendis apostolicis bullis transferuntur ad collegium Protonotariorum Apostolicorum, qui vocantur *participantes de numero.*

2° DATARIA APOSTOLICA

1. Huic officio praeest unus ex S. R. E. Cardinalibus, qui in posterum Datarii, non vero Pro-Datarii nomen obtinet.

2. Ad Datariam in posterum hoc unum tamquam proprium ministerium tribuitur, cognoscere de idoneitate eorum qui optant ad beneficia non consistorialia Apostolicae Sedi reservata; conficere et expedire Apostolicas litteras pro eorum collatione; eximere in conferendo beneficio

a conditionibus requisitis; curare pensiones et onera quae Summus Pontifex in memoratis conferendis beneficiis imposuerit.

3. In his omnibus agendis normas peculiares sibi proprias, aliasque seorsim dandas servabit.

3° CAMERA APOSTOLICA

Huic Officio cura est atque administratio bonorum ac iurium temporalium Sanctae Sedis, quo tempore praesertim haec vacua habeatur. Ei officio praeest S. R. E. Cardinalis Camerarius, qui in suo munere, Sede ipsa vacua, exercendo se geret ad normas exhibitas a Const. *Vacante Sede Apostolica,* XXV Dec. MDCCCCIV.

4° SECRETARIA STATUS

Officium hoc, cuius est supremus moderator Cardinalis a *Secretis Status,* hoc est a publicis negotiis, triplici parte constabit. Prima pars in negotiis extraordinariis versabitur, quae Congregationi iisdem praepositae examinanda subiici debent, ceteris, pro diversa eorum natura, ad peculiares Congregationes remissis; altera in ordinaria negotia incumbet, ad eamque, inter cetera, pertinebit honoris insignia quaeque concedere tum ecclesiastica tum civilia, iis demptis quae

Antistiti pontificali domui Praeposito sunt reservata; tertia expeditioni Apostolicorum Brevium, quae a variis Congregationibus ei committuntur, vacabit. — Primae praeerit *Secretarius* Congregationis pro negotiis extraordinariis; alteri *Substitutus* pro negotiis ordinariis; tertiae *Cancellarius* Brevium Apostolicorum. Inter harum partium praesides primus est *Secretarius* Sacrae Congregationis negotiis extraordinariis praepositae, alter *Substitutus* pro ordinariis negotiis.

5° SECRETARIAE BREVIUM

AD PRINCIPES ET EPISTOLARUM LATINARUM

Duplex hoc officium sua munia, ut antea, servabit, latine scribendi acta Summi Pontificis.

In posterum vero in omnibus Apostolicis Litteris, sive a *Cancellaria* sive a *Dataria* expediendis, initium anni ducetur, non a die Incarnationis Dominicae, hoc est a die XXV mensis Martii, sed a Kalendis Ianuarii.

Itaque Congregationes, Tribunalia, Officia, quae diximus, post hac Romanam Curiam constituent, servata eorum quae ante Nostras has lit-

teras exstabant, propria constitutione, nisi immutata fuerit secundum superius praescripta aut secundum legem ac normas sive generales sive speciales quae Constitutioni huic adiiciuntur.

Congregatio quae dicitur *Reverendae fabricae S. Petri,* in posterum unam sibi curandam habebit rem familiarem Basilicae Principis Apostolorum, servatis ad unguem in hac parte normis a Benedicto XIV statutis Const. *Quanta curarum* die XV mensis Novembris MDCCLI data.

Coetus *studiis provehendis* sive *Sacrae Scripturae,* sive *historiae; Obulo S. Petri administrando; Fidei in Urbe praeservandae,* permanent in statu quo ante.

Sublata Congregatione *Visitationis Apostolicae Urbis,* quae ipsius erant iura munia, ad peculiarem Patrum Cardinalium coetum, penes urbis Vicariatum constituendum, deferimus.

In omnibus autem et singulis superius recensitis Congregationibus, Tribunalibus, Officiis hoc in primis solemne sit, ut nil grave et extraordinarium agatur, nisi a moderatoribus eorumdem Nobis Nostrisque pro tempore Successoribus fuerit ante significatum.

Praeterea, sententiae quaevis, sive gratiae via, sive iustitiae, pontificia approbatione indigent, exceptis iis pro quibus eorumdem Officorum, Tribunalium et Congregationum moderatoribus

speciales facultates tributae sint, exceptisque semper sententiis tribunalis Sacrae Rotae et Signaturae Apostolicae de ipsarum competentia latis.

Huic Constitutioni accedunt leges propriae, ac normae tum generales tum particulares, quibus disciplina et modus tractandi negotia in Congregationibus, Tribunalibus, Officiis praestituitur; quas leges et normas ad unguem ab omnibus observari mandamus.

Atque haec valere quidem debent Apostolica Sede plena; vacuâ enim standum legibus et regulis in memorata Constitutione "*Vacante Sede Apostolica*" statutis.

Decernentes praesentes Litteras firmas, validas et efficaces semper esse ac fore, suosque plenarios et integros effectus sortiri atque obtinere, et illis ad quos spectat aut pro tempore quomodolibet spectabit, in omnibus et per omnia plenissime suffragari, atque irritum esse et inane si secus super his a quoquam contigerit attentari. Non obstantibus Nostra et Cancellariae Apostolicae regula de iure quaesito non tollendo, aliisque Constitutionibus et ordinationibus Apostolicis, vel quavis firmitate alia roboratis statutis, consuetudinibus, ceterisque contrariis quibuslibet etiam specialissima mentione dignis.

Datum Romae apud Sanctum Petrum, anno

Incarnationis Dominicae millesimo nongentesimo octavo, die festo Sanctorum Apostolorum Petri et Pauli, III Kal. Iulias, Pontificatus Nostri anno quinto.

A. Card. Di Pietro
Pro-Datarius
R. Card. Merry Del Val
A Secretis Status

VISA

De Curia I. De Aquila e Vicecomitibus
Loco ✠ *Plumbi*
Reg. in Secret. Brevium
V. Cugnonius.

LEX PROPRIA SACRAE ROMANAE ROTAE ET SIGNATURAE APOSTOLICAE

TITULUS I

SACRA ROMANA ROTA

CAP. I.—*De constitutione Sacrae Romanae Rotae*

CAN. 1

§ 1. Sacra Romana Rota decem Praelatis constat a Romano Pontifice electis, qui Auditores vocantur.

§ 2. Hi sacerdotes esse debent, maturae aetatis, laurea doctorali saltem in theologia et iure canonico praediti, honestate vitae, prudentia, et iuris peritia praeclari.

§ 3. Cum aetatem septuaginta quinque annorum attigerint emeriti evadunt, et a munere iudicis cessant.

Can. 2

§ 1. Sacra Rota Collegium constituit, cui praesidet Decanus, qui primus est inter pares.

§ 2. Auditores post Decanum ordine sedent ratione antiquioris nominationis, et in pari nominatione ratione antiquioris ordinationis ad sacerdotium, et in pari nominatione et ordinatione presbyterali, ratione aetatis.

§ 3. Vacante decanatu, in officium decani ipso iure succedit qui primam sedem post decanum obtinet.

Can. 3

§ 1. Singuli Auditores, probante Rotali Collegio et accedente consensu Summi Pontificis, eligant sibi unum studii adiutorem, qui laurea doctorali iuris saltem canonici in publica universitate studiorum, vel facultate a Sancta Sede recognitis donatus sit, et religione vitaeque honestate praestet.

§ 2. Adiutor in suo munere explendo de mandato sui Auditoris agere debet, et manet in officio ad eiusdem nutum.

Can. 4

§ 1. Erunt insuper in Sacra Rota promotor iustitiae pro iuris et legis tutela, et defensor sacri vinculi matrimonii, professionis religiosae et sacrae ordinationis.

§ 2. Hi sacerdotes esse debent, laurea doctorali in theologia et in iure saltem canonico insigniti, maturae aetatis, et prudentia ac iuris peritia praestantes.

§ 3. Eligentur a Summo Pontifice, proponente rotali Auditorum Collegio.

Can. 5

§ 1. Constituentur etiam notarii, quot necessarii sunt pro actibus Sacrae Rotae rogandis, qui praeterea actuarii et cancellarii munere in sacro tribunali fungentur.

§ 2. Duo saltem ex his erunt sacerdotes: et in causis criminalibus clericorum vel religiosorum his dumtaxat reservatur notarii et actuarii munus.

§ 3. Omnes eligentur a Collegio Rotali ex concursu iuxta regulam pro ceteris Sanctae Sedis officiis datam: eorumque electio confirmanda erit a Summo Pontifice.

Can. 6

§ 1. Unus vel duo laici maturae aetatis et probatae vitae constituentur pro custodia sedis et aulae Sacrae Rotae, qui, quoties necesse sit, cursorum et apparitorum officia praestabunt.

§ 2. Erigentur a Rotali Collegio cum suffragiorum numero absolute maiore.

Can. 7

§ 1. Singuli Sacrae Rotae Auditores, post nominationem, antequam iudicis officium suscipiant, coram universo Collegio, adstante uno ex notariis sacri tribunalis, qui actum rogabit, iusiurandum dabunt de officio rite et fideliter implendo.

§ 2. Idem iusiurandum dabunt singuli adiutores Auditorum, et tribunalis administri coram Sacrae Rotae Decano, adstante pariter uno ex notariis.

Can. 8

In re criminali, in causis spiritualibus et in aliis, quando ex revelatione alicuius actus praeiudicium partibus obvenire potest, vel ab ipso tribunali secretum impositum fuit, Auditores,

adiutores Auditorum et tribunalis administri tenentur ad secretum officii.

Can. 9

§ 1. Auditores qui secretum violaverint, aut ex culpabili negligentia vel dolo grave litigantibus detrimentum attulerint, tenentur de damnis: et ad instantiam partis laesae, vel etiam ex officio, Signaturae Apostolicae iudicio a SSmo confirmato, puniri possunt.

§ 2. Tribunalis administri et adiutores Auditorum, qui similia egerint, pariter tenentur de damnis; et ad instantiam partis laesae, aut etiam ex officio, Rotalis Collegii iudicio, pro modo damni et culpae puniri possunt.

Can. 10

§ 1. Declaratio fidelitatis exemplarium cum autographo a notariis fieri potest ad instantiam cuiuslibet petentis.

§ 2. Extrahere vero documenta ex archivio, illaque petentibus communicare, notarii non possunt nisi de mandato Praesidis turni coram quo causa agitur, si ad effectum causae documentum postuletur: de mandato Decani, si aliquod documentum ob alium finem requiratur.

Can. 11

Sacra Rota, duabus formis ius dicit, aut per *turnos* trium Auditorum, aut videntibus omnibus, nisi aliter pro aliqua particulari causa Summus Pontifex statuerit sive ex se, sive ex consulto sacrae alicuius Congregationis.

Can. 12

§ 1. Turni hoc ordine procedent. Primus turnus constituitur ex tribus ultimis Auditoribus; secundus et tertius ex sex praecedentibus; quartus ex decano et duobus ultimis Auditoribus, qui denuo in turni seriem redeunt; quintus et sextus turnus ex Auditoribus sex qui praecedunt; septimus ex subdecano et decano rotali una cum ultimo Auditore, qui rursus in seriem venit; denique octavus, nonus et decimus turnus ex novem reliquis Auditoribus: et sic deinceps, servata ea vice perpetuo.

§ 2. Turni in iudicando sibi invicem succedunt iuxta ordinem temporis, quo causae delatae sunt ad Sacrae Rotae tribunal.

§ 3. Si, iudicata iam ab uno turno aliqua causa, opus sit secunda sentenia, causam videt turnus qui proxime subsequitur, etsi hic aliam causam iuxta superiorem paragraphum iudican-

dam assumpserit. Et si opus sit tertia sententia, eodem modo turnus, qui duos praecedentes proxime subsequitur, causam videndam suscipit.

§ 4. In unoquoque turno, seu Auditorum coetu, praeses est semper Auditor cui prior locus competit.

§ 5. Si quis infirmitate aut alia iusta causa impeditus partem in iudicando in suo turno habere non possit, praevio Decani decreto, eum supplet primus Auditor liber, non proximi quidem turni, sed alterius subsequentis.

Quod si opus sit tertia rotali sententia, impeditum Auditorem supplet decimus rotalis, vel alius qui partem in tribus turnis non habet.

§ 6. Auditor ob impedimentum alterius rotalis suffectus, etsi senior, praeses turni esse non potest, quoties causa iam coepta sit, et Praeses alius constitutus.

Can. 13

Circa vacationes Rotale tribunal eiusque administri eadem utentur regula ac cetera Sancta Sedis officia.

Cap.. II.—*De competentia Sacrae Romanae Rotae*

Can. 14

§ 1. Sacra Rota iudicat in prima instantia causas, quas sive motu proprio, sive ad instantiam partium Romanus Pontifex ad suum tribunal avocaverit, et Sacrae Rotae commiserit; easque, si opus sit, ac nisi aliter cautum sit in commissionis rescripto, iudicat quoque in secunda et in tertia instantia, ope turnorum subsequentium iuxta praescripta *can. 12.*

§ 2. Iudicat in secunda instantia causas quae a tribunali Emi Urbis Vicarii et ab aliis Ordinariorum tribunalibus in primo gradu diiudicatae fuerint, et ad Sanctam Sedem per appellationem legitimam deferuntur. Itemque eas iudicat, si opus sit, etiam in tertia iuxta modum in *can. 12* praescriptum.

§ 3. Iudicat denique in ultima instantia causas ab Ordinariis et ab aliis quibusvis tribunalibus in secundo vel ulteriori gradu iam cognitas, quae in rem iudicatam non transierint, et per legitimam appellationem ad Sanctam Sedem deferuntur.

§ 4. Videt quoque de recursibus pro restitutione in integrum a sententiis quibusvis, quae

transierint in rem iudicatam et remedium invenire non possunt apud iudicem secundae instantiae iuxta titulum *De rest. in integr.;* dummodo tamen non agatur de re iudicata ex sententia Sacrae Romanae Rotae; et in his iudicat tum de forma, tum de merito.

Can. 15

Causae maiores, sive tales sint ratione obiecti, sive ratione personarum, excluduntur ab ambitu competentiae huius tribunalis.

Can. 16

Contra dispositiones Ordinariorum, quae non sint sententiae forma iudiciali latae, non datur appellatio seu recursus ad Sacram Rotam; sed eorum cognitio Sacris Congregationibus reservatur.

Can. 17

Defectus auctoritatis Sacrae Rotae in videndis causis, de quibus in duobus canonibus praecedentibus, est absolutus, ita ut ne obiter quidem de his cognoscere queat, et si tamen sententiam proferat, haec ipso iure sit nulla.

Cap. III.—*De modo iudicandi Sacrae Romanae Rotae*

Can. 18

§ 1. Partes per se ipsae possunt se sistere et iura sua dicere coram Sacra Rota.

§ 2. Si quem tamen sibi assumant advocatum, hunc eligere debent inter approbatos iuxta tit. III huius legis.

§ 3. Advocatus, aut qua consultor et adsistens, aut qua patronus, cui causa defendenda ex integro commissa maneat, a parte eligi potest: in utroque casu tradi ei debet mandatum in scriptis, quod exhibendum est tribunali, et servandum in actis.

§ 4. Advocatus ad adsistendum assumptus tenetur clientem instruere, prout et quatenus opus sit, de regulis et usu sacri tribunalis, opportuna consilia de modo agendi eidem praebere, et defensionem ac responsionem cum eo subsignare.

§ 5. Si partes per se ipsae etiam cum adsistente advocato ut in § 3, defensionem suam suscipiant, uti possunt in defensionis et responsionis scriptura vernacula lingua a sacro tribunali admissa.

§ 6. In quolibet tamen casu unica semper esse debet defensionis et responsionis scriptura, hoc

est aut partis aut eius patroni: numquam vero duplex, id est utriusque.

Can. 19

§ 1. Cum ad Sacrae Rotae protocollum pervenerit appellatio aliqua, aut commissio iudicandi aliquam causam in forma ordinaria, appellationis libellus aut litterae commissoriae ex Decani mandato transmittuntur Auditorum turno ad quem spectat iudicium in ordine et vice sua iuxta praecedentem *can. 12;* turnus autem, assumpta causa, procedit ad eius examen iuxta ordinarias iuris normas.

§ 2. Quod si commissio iudicandi facta sit, non in forma ordinaria, sed speciali, idest videntibus quinque, vel septem, vel omnibus Auditoribus, aut dumtaxat pro voto; Sacra Rota servare in primis debet commissionis formam iuxta tenorem rescripti, et in reliquis iuxta regulas iuris communis et sibi proprias procedere.

Can. 20

Quoties quaestio in Sacra Rota fiat circa executionem provisoriam alicuius sententiae aut circa inibitionem exsecutionis, res inappellabili sententia a solo Praeside turni, ad quem iudicium causae in merito spectaret, est definienda.

Can. 21

Praeses turni, seu Auditorum coetus, qui tribunal constituit, per se est etiam Ponens seu Relator causae. Quod si iustam habeat rationem declinandi hoc officium, auditis ceteris turni seu coetus Auditoribus, suo decreto statuet qui vice sua Ponentis munus suscipiat.

Can. 22

§ 1. Si in aliqua causa opus sit instructione processus, instructio fiat iuxta receptas canonicas regulas.

§ 2. Ponens autem seu Relator non potest simul esse causae instructor, sed hoc officium a Decano debet demandari alicui Auditori alterius turni.

Can. 23

§ 1. Causa coram Sacra Rota introducta et instructa, actor, vel etiam conventus, si ipsius intersit, Ponentem rogabit ut diem dicat alteri parti pro contestatione litis, seu concordatione dubiorum.

§ 2. Ponens, vel eius studii adiutor, in calce libelli diem constituet. Quod in examplari authentico alteri parti communicari statim debet.

CAN. 24

§ 1. Si die assignata pro concordatione dubiorum pars in ius vocata non compareat, et legitimam excusationem absentiae dare negligat, contumax declarabitur, et dubiorum formula ac dies propositionis causae ad postulationem partis praesentis et diligentis ex officio statuetur: idque statim ex officio notum fiet alteri parti, ut, si velit, excipere possit contra dubiorum formulam, et a contumacia se purgare, constituto ad hoc a Ponente vel eius studii Adiutore congruo temporis termino.

§ 2. Si partes praesentes sint, et conveniant in formula dubii atque in die propositionis causae, et Ponens vel eius Adiutor ex parte sua nil excipiendum habeant, dabitur opportunum decretum quo id constabiliatur.

§ 3. Si vero partes non conveniant in formula dubii, aut in die propositionis causae: itemque si Ponens vel eius Adiutor censeant acceptari non posse partium conclusiones definitio controversiae reservatur iudicio totius turni; qui quaestione incidentali discussa decretum ad rem feret.

§ 4. Dubiorum formula utcumque statuta mutari non potest nisi ad instantiam alicuius partis, vel promotoris iustitiae, vel defensoris vinculi, audita altera parte, novo Ponentis vel turni de-

creto, prout fuerit vel a Ponente vel a turno statuta.

§ 5. Dies eodem modo mutari potest; sed haec mutatio fieri potest etiam ex officio, si Ponens vel turnus necessarium ducant.

Can. 25

§ 1. Sententiae, decreta et acta quaelibet contra quae expostulatio facta sit, exhibenda sunt Sacrae Rotae saltem decem dies ante litis contestationem.

§ 2. Documenta que partes in propriae thesis suffragium producenda habent, triginta saltem dies ante causae discussionem deponenda sunt in protocollo Sacrae Rotae, ut a iudicibus et tribunalis administris atque ab altera parte examinari possint in ipso loco protocolli, unde ea asportari non licet.

§ 3. Debent autem esse legitima forma confecta, et exhibenda sunt in forma authentica, colligata in fasciculo, cum adiecto rerum indice, ne subtrahi aut deperdi possint.

Can. 26

§ 1. Defensio typis est imprimenda: et triginta dies ante causae discussionem (*eodem nempe*

tempore ac documenta de quibus in can. praec. deponenda sunt in protocollo rotali) distribuenda est duplici exemplari singulis iudicibus, notariis protocolli et archivii, itemque promotori iustitiae et vinculi defensori, si iudicio intersint. Commutari praeterea debet cum altera parte, aut partibus, ut responsioni locus hinc inde fiat.

§ 2. Defensioni adiungendum est Summarium, typis pariter impressum, in quo documenta potiora contineantur.

Can. 27

§ 1. Responsiones decem dies ante causae discussionem, idest viginti dies post distributionem defensionis, exhibendae sunt una cum novis documentis, si quae adiungenda partes habeant, servatis etiam hoc in casu regulis *can. 24 et can. 25.*

§ 2. Quo facto conclusum in causa reputabitur: et partibus eorumque patronis seu procuratoribus iam non licebit quidpiam adiungere aut scribere.

§ 3. Si tamen agatur de repertis novis documentis, fas semper est ea producere. Sed in eo casu pars exhibens probare tenetur se ea documenta nonnisi ad ultimum reperisse. Admissis vero his novis documentis, Ponens debet con-

gruum tempus alteri parti concedere ut super iisdem respondere possit. Aliter nullum erit iudicium.

§ 4. In potestate autem et officio Ponentis est documenta futilia ad moras nectendas exhibita respuere.

Can. 28

Spatia temporum superioribus canonibus constituta prorogari possunt a iudice ad instantiam unius partis, altera prius audita, vel etiam coarctari, si ipse iudex necessarium duxerit, consentientibus tamen partibus.

Can. 29

§ 1. Defensionis scriptura excedere non debet viginti paginas formae typographicae ordinariae folii romani. Responsiones decem paginas.

§ 2. Si ob gravitatem, difficultatem, aut grande volumen documentorum parti vel patrono necesse sit hos limites excedere, a Ponente supplici libello id ipsi impetrabunt. Ponens autem decreto suo statuet numerum ulteriorem paginarum quem concedit, quemque praetergredi nefas est.

§ 3. Exemplar tum defensionis tum respon-

sionis antequam edatur exhibendum est Ponenti vel eius studii adiutori, ut imprimendi atque evulgandi facultas impetretur.

§ 4. Nulla scriptura Sacrae Rotae destinata typis edi potest, nisi in typographia a Collegio Sacrae Rotae approbata.

Can. 30

Quae dicuntur *informationes orales ad iudicem,* in Sacra Rota prohibentur: admittitur tamen moderata disputatio ad elucidationem dubiorum coram turno pro tribunali sedente, si alterutra vel utraque pars eam postulet, aut tribunal statuat ut eadem habeatur. In ea vero hae regulae serventur:

1° disputatio fiat die et hora a tribunali opportune assignanda tempore intermedio inter exhibitionem responsionis et assignatam iudicio diem;

2° partes regulariter non admittuntur ut per se ipsae causam suam dicant coram iudicibus; sed ad id deputare debent unum ex advocatis, quem sibi ad adsistendum, aut qua patronum vel procuratorem adsciverint. In potestate tamen tribunalis est eas rationabili de causa admittere, aut advocare et iubere ut intersint;

3° biduo ante disputationem partes exhibere

debent Adiutori Ponentis quaestionis capita cum altera parte discutienda paucis verbis, una vel altera periodo, contenta. Eaque adiutor partibus hinc inde communicabit, una simul cum quaesitis a turni Auditoribus praeparatis, si quae ipsi habeant, super quibus partes rogare velint;

4° disputatio non assumet oratoriam formam; sed sub Ponentis ductu ac moderatione circumscripta erit limitibus illustrandorum dubiorum;

5° adsistet unus ex notariis tribunalis ad hoc ut, si aliqua pars postulet et tribunal consentiat, possit de disceptatis confessis aut conclusis, adnotationem ad tramitem iuris ex continenti assumere;

6° qui in disputatione iniurias proferat, aut reverentiam et obedientiam tribunali debitam non servet, ius ad ulterius loquendum amittit, et si agatur de procuratore vel advocato, puniri pro casus gravitate potest etiam suspensione aut privatione officii.

Can. 31

§ 1. Assignata iudicio die Auditores in consilium ad secretam causae discussionem convenire debent.

§ 2. Unusquisque scripto afferet conclusiones suas seu votum cum brevibus probationibus tam

in facto quam in iure. Attamen in discussione fas semper est Auditoribus a conclusionibus suis recedere, si iustum et necessarium ducant. Conclusiones autem suas singuli Auditores in actis causae deponere tenentur ad rei memoriam: secretae tamen ibi servabuntur.

§ 3. Ea demum sit sententia in qua firmiter conveniant duo saltem ex auditoribus, aut pars absolute maior praesentium, si tribunal plus quam tribus Auditoribus constituatur.

§ 4. Si ad sententiam in prima discussione devenire iudices nolint aut nequeant, differre poterunt iudicium ad primum proximum eiusdem turni conventum, quem protrahi non licet ultra hebdomadam, nisi forte vacationes tribunalis intercedant.

Can. 32

§ 1. Re conclusa in Auditorum consilio, Ponens super actorum fasciculo signabit partem dispositivam sententiae, idest responsiones ad dubia: quae a notario tribunalis partibus significari poterunt, nisi tribunal censuerit solutionem suam secreto servare usque ad formalis sententiae promulgationem.

§ 2. Haec intra decem dies, aut ad summum intra triginta in causis implicatioribus est pera-

genda; exaranda vero vel a causae Ponente vel ab alio ex auditoribus, cui hoc munus in secreta causae discussione commissum sit.

§ 3. Eadem lingua latina est conscribenda; et rationes tam in facto quam in iure sub poena nullitatis continere debet.

§ 4. Subsignabitur a Praeside turni et ab aliis Auditoribus una cum aliquo ex notariis Sacrae Rotae.

Can. 33

§ 1. Si sententia rotalis confirmatoria sit alterius sententiae sive rotalis sive alius tribunalis, habetur res iudicata, contra quam nullum datur remedium nisi per querelam nullitatis, vel per petitionem restitutionis in integrum coram supremo Apostolicae Signaturae tribunali.

§ 2. Si duplex sententia conformis non habeatur, a sententia rotali ab uno turno lata datur appellatio ad turnum proxime sequentem iuxta *can. 12,* intra tempus utile dierum decem ab intimatione sententiae, ad tramitem iuris communis.

Can. 34

§ 1. Si, introducta causa, actor renunciare velit instantiae, aut liti, aut causae actibus, id

ei semper licebit. Sed renunciatio debet esse absoluta nullique conditioni subiecta, subsignata cum loco et die a renunciante, vel ab eius procuratore speciali tamen mandato munito, ab altera parte acceptata aut saltem non oppugnata, et a iudice deinde admissa.

§ 2. Renuncians tamen tenetur hisce in casibus ad omnia consectaria, quae ex his renunciationibus profluunt ad tramitem iuris communis.

TITULUS II.

SIGNATURA APOSTOLICA

Cap. I.—*De constitutione et competentia Signaturae Apostolicae.*

Can. 35

§ 1. Supremum Apostolicae Signaturae tribunal constat sex S. R. E. Cardinalibus, a Summo Pontifice electis, quorum unus, ab eodem Pontifice designatus, Praefecti munere fungetur.

§ 2. Eique dabitur a Romano Pontifice adiutor, seu a Secretis, qui iuxta regulas eiusdem Signaturae proprias, sub ductu Cardinalis Praefecti, omnia praestabit quae ad propositae causae instructionem eiusque expeditionem necessaria sunt.

Can. 36

§ 1. Praeter Secretarium erit etiam in Apostolica Signatura unus saltem notarius conficiendis actibus, conservando archivio, et adiuvando Secretario in iis quae ab eo ipsi committuntur: habebitur quoque custos conclavium eiusdem Signaturae: prior sacerdos alter laicus.

§ 2. Erunt etiam aliquot Consultores, a Summo Pontifice eligendi, quibus poterit examen alicuius quaestionis pro voto ferendo committi.

§ 3. Quae ad nominationem, iusiurandum, obligationem secreti ac disciplinam pertinent, et pro administris Sacrae Rotae constituta sunt, serventur quoque, cum proportione, pro Apostolicae Signaturae administris.

Can. 37

Supremum Apostolicae Signaturae tribunal videt tamquam sibi propria ac praecipua:

1° de exceptione suspicionis contra aliquem Auditorem, ob quam ipse recusetur;

2° de violatione secreti, ac de damnis ab Auditoribus illatis, eo quod actum nullum vel iniustum in iudicando posuerint, iuxta *can. 9;*

3° de querela nullitatis contra sententiam rotalem;

4° de expostulatione pro restitutione in in-

tegrum adversus rotalem sententiam quae in rem iudicatam transierit.

Cap. II.—*De modo iudicandi Apostolicae Signaturae*

Can. 38

Ad postulandam restitutionem in integrum et ad introducendum iudicium nullitatis contra sententiam rotalem dantur tres menses utiles a reperto documento aut a cognita causa, ob quam ad haec remedia recursus fieri potest.

Can. 39

§ 1. Expostulatio ad Signaturam pro restitutione in integrum non suspendit rei iudicatae exsecutionem.

§ 2. Nihilominus ad instantiam partis recurrentis Signatura potest, incidentali sententia, inhibitionem exsecutionis iubere, aut obligare partem victricem ad congruam cautionem praestandam pro restitutione in integrum.

Can. 40

§ 1. Libellus, quo causa introducitur, exhibendus est Secretario Signaturae Apostolicae.

§ 2. Cardinalis autem Praefectus, una cum

Secretario, accepta instantia, examinare debet, utrum fundamentum aliquod boni iuris habeat: quod si desit, instantiam ipsam quamprimum reicere; sin vero habeatur, tenetur admittere.

Can. 41

§ 1. In causa criminali, de qua sub *num. 2 canonis 37,* regulae processuales serventur, quae pro causis criminalibus a iure canonico statuuntur.

§ 2. In aliis iudiciis, de quibus in *num. 1, 3* et *4, can. 37,* Signatura procedere potest sola rei veritate inspecta, citata tamen semper parte adversa, vel conventa, vel cuius intersit, et praefixo partibus congruo peremptorio termino ad iura sua deducenda.

§ 3. Et in primo ex memorati iudicii casibus Apostolica Signatura inappellabili sententia definit utrum, an non, sit locus recusationi Auditoris. Quo facto, iudicium ad Sacram Rotam remittit, ut iuxta suas regulas ordinarias procedat, admisso in suo turno, vel non, Auditore contra quem exceptio sublevata fuit, iuxta Signaturae sententiam.

In tertio casu de hoc tantum iudicat, sitne nulla rotalis sententia, et sitne locus eius circumscriptioni.

In quarto casu Apostolica Signatura, inappellabili sententia definit utrum, necne, locus sit restitutioni in integrum. Qua concessa, rem remittit ad Sacram Rotam, ut, videntibus omnibus, de merito iudicet.

Can. 42

Cardinalis Praefectus, itemque Signaturae tribunal, si expedire reputent, convocare possunt Promotorem iustitiae et Defensorem vinculi penes Sacram Rotam, et ab eis votum exigere, vel etiam petere ut de actibus rotalibus, quae impugnantur rationes explicent.

Can. 43

In reliquis, quae necessaria sunt ad iudicii expeditionem, et non sunt in praecedentibus canonibus cauta, servari in primis debent, congrua congruis referendo, regulae pro Sacra Rota statutae, et deinde normae iuris communis.

TITULUS III

DE ADVOCATIS PENES SACRAM ROTAM ET APOSTOLICAM SIGNATURAM

Can. 44

§ 1. Advocati proprii ac nativi Sacrae Rotae et Signaturae Apostolicae sunt Advocati consistoriales.

§ 2. Admittuntur tamen et alii sive sacerdotes sive laici, qui laurea doctorali saltem in canonico iure instructi, post triennale tyrocinium vel qua adiutores penes aliquem ex Auditoribus, vel penes aliquem ex advocatis rotalibus, facto experimento coram Rotali Collegio, ab eodem idonei reperti sint, diploma advocatorum acceperint, a Sacrae Rotae Decano et ab uno ex notariis subsignatum, ac iusiurandum coram Rotali Collegio dederint de munere ex conscientia implendo.

Can. 45

§ 1. Advocati in causis coram Sacra Rota et Signatura Apostolica agendis tenentur servare tum communes leges canonicas tum regulas horum tribunalium proprias; et in scripturis pro defensione exarandis lingua latina uti debent.

§ 2. Tenentur insuper de mandato Decani

Sacrae Rotae aut Cardinalis Praefecti Signaturae Apostolicae gratuitum patrocinium aut gratuitam adsistentiam praebere iis, quibus Sacra Rota aut Signatura Apostolica hoc beneficium concesserit.

§ 3. Nefas eisdem est emere litem, aut de extraordinario emolumento vel immodica rei litigiosae parte sibi vindicanda pacisci. Quae si fecerint, praeter nullitatem pactionis, a Sacra Rota congrua poena multari possunt, iuxta sequentem canonem.

Can. 46

Collegium advocatorum consistorialium fungetur munere collegii disciplinae pro continendis in officio advocatis: qui, ex voto eiusdem Collegii, a Sacra Rota reprehensionis nota inuri, poena pecuniaria multari, suspendi, vel etiam ex albo advocatorum expungi poterunt.

APPENDIX

DE TAXATIONE EXPENSARUM IUDICIALIUM

Cap. I.—*De proventibus quae ad aerarium Sanctae Sedis spectant*

1. Acta quaelibet iudicialia in causis tum contentiosis tum criminalibus exarari debent in foliis

sigillum Sedis Apostolicae referentibus, excepta prima instantia, et exceptis quoque foliis typis edendis, de quibus in *can. 25* et *26* Folia quatuor paginis constant et paginae triginta lineis.

Pretium uniuscuiusque folii coram Sacra Rota adhibendi est, lib. 1; coram Signatura Apostolica, lib. 2.

2. In eodem folio cumulari nequeunt acta diversa, quamvis ad eamdem causam spectantia.

3. Quoties documenta in protocollo Sacrae Rotae exhibentur sive plura sint, sive pauciora, singulis vicibus pendenda est lib. 1.

4. Pro actu quo declaratur concordare exemplar alicuius documenti cum autographo, ad singula folia, lib. 0.50.

5. Pro peritiis, si requirantur, et pro examine testium, si habendum sit, a requirente peritiam vel probationem per testes deponenda est penes officialem rotalem, pecuniae custodem, summa ab Adiutore Praesidis tribunalis taxanda, quae ab eo censeatur sufficiens ad expensas peritiae vel examinis testium solvendas.

6. In taxanda hac summa Adiutor aestimare debet, iuxta civilem Urbis usum, quid requiratur ad retribuendam peritorum operam, si de ipsa agatur, vel ad indemnitatem testibus praestandam, tum ob itineris expensas, tum ob cessatum lucrum ex interruptione laboris, si de ex-

amine testium res sit. Praeterea tribunalis iura iuxta communes normas ei prae oculis habenda sunt.

7. Ad occurrendum expensis iudicialibus universe sumptis deponenda est in arca summaria Sacrae Rotae pro prudenti Ponentis arbitrio pecuniae summa a 100 ad 500 libellas.

8. Proventus universi huc usque recensiti ad aerarium Sanctae Sedis spectant, et ad illud singulis mensibus transmitti debent iuxta regulam pro aliis Sanctae Sedis officiis assignatam.

Cap. II.—*De proventibus qui cedunt in retributionem operis a singulis praestiti*

1. Pro versione alicuius actus a lingua non in usu penes Romanam Curiam in aliam usu receptam, retributio pro singulis foliis, lib. 1.50.

2. Pro examinanda versione, et pro declaratione facienda a perito de eius fidelitate, ad singula folia, lib. 0.50.

3. Pro simplici transcriptione, ad singulas paginas, lib. 0.25.

4. Pro extrahendis ex archivio documentis vel fasciculo (*posizione*) alicuius causae, tabularius ministerium suum gratuito debet praestare, si agatur de re ultimis decem annis acta; si de antiquiori, ius habet ad lib. 5.

CAP. III.—*De advocatorum et procuratorum proventibus*

1. Pro qualibet instantia exarata, lib. 5.

2. Pro concordatione dubiorum, ad singula dubia, lib. 5.

3. Pro interventu in examine testium in qualibet sessione, lib. 5.

4. Pro adsistentia examini, vel iuramento parti delato, lib. 5.

5. Pro congressibus cum cliente et cum aliis personis ad effectum causae, iuxta numerum et simul sumptis, a lib. 10 ad 100.

6. Pro accessibus ad tribunal, a lib. 5 ad 50.

7. Pro disputatione coram tribunali ad normam *can. 30,* a lib. 10 ad 25.

8. Pro examine omnium documentorum, a lib. 50 ad 100.

9. Pro eorum ordinatione et summarii compositione, a lib. 50 ad 100.

10. Pro exaranda defensione, a lib. 200 ad 1000.

11. Pro responsione, a lib. 100 ad 200.

12. Pro simplici adsistentia ad normam *can. 18,* a lib. 100 ad 200.

13. Harum omnium taxarum motio, seu *liquatio,* facienda est ad tramitem communis iuris a Praeside tribunalis.

Cap. IV.—*De exemptione a iudicialibus expensis et gratuito patrocinio*

1. Pauperibus ius est exemptionis ab expensis iudicialibus, et gratuiti patrocinii, iuxta praescripta superius *can. 45, § 2.*

2. Qui pauperes absolute dici non possunt, sed ob arctam suam conditionem ordinariis expensis ferendis pares non sunt, ad earum reductionem ius habent.

3. Qui exemptionem ab expensis vel earum reductionem assequi velit, eam postulare debet, dato supplici libello Praesidi turni vel Auditorum coetus, qui causam iudicandam habet, adductisque documentis quibus conditionem suam comprobet. Praeterea, nisi agatur de iudicio a SSmo commisso, demonstrare debet se non futilem neque temerariam causam agere.

4. Praeses turni postulationem ne admittat, nisi auditis, praeter partem postulantem, parte adversa, promotore iustitiae ac decano advocatorum consistorialium, requisitisque, si opus sit, notitiis etiam secretis super statu oeconomico postulantis.

5. Contra decretum Praesidis negantis exemptionem ab expensis vel earum reductionem, potest, intra utile tempus decem dierum, expostulatio fieri pro recognitione iudicii ad turnum,

vel Auditorum coetum, cui causa iudicanda est.

6. Qui exemptionem ab expensis et gratuitum patrocinium concedit, simul debet unum ex advocatis designare, qui pauperis patrocinium vel adsistentiam suscipiat ad normam *can. 45, § 2.*

7. Si vero decreta tantum fuerit expensarum reductio, qui huiusmodi decretum tulit, debet simul normas saltem generales statuere intra quas reductio sit circumscribenda.

Cap. V.—*De expensis in iudiciis coram Signatura Apostolica*

Eadem Regula, congrua congruis referendo, servetur ac pro iudiciis coram S. Rota.

Datum Romae, die XXIX Iunii MDCCCCVIII.

De mandato speciali SSmi D. N. Pii Papae X.

R. Card. Merry del Val.

ORDO SERVANDUS IN SACRIS CONGREGATIONIBUS, TRIBUNALIBUS, OFFICIIS ROMANAE CURIAE

PARS PRIMA

NORMAE COMMUNES

Cap. I.—De ordine ac directione generatim

1. In omnibus superius memoratis S. Sedis Officiis (*dicasteri*) duplex erit Administrorum coetus, Maiorum et Minorum.

2. In singulis moderatio proxima *Secretariae,* Protocolli, Tabularii, ad Praelatum pertinet qui alter est a Cardinali Praeside. A Praelato tamen erunt ad Cardinalem deferendae maioris momenti res, quibus peculiari aliquo modo sit consulendum.

In S. Rotae tribunali secretaria, protocollum, tabularium obnoxia sunt Auditori Decano, eoque impedito, Auditori qui primam sedem post decanum obtinet: hi tamen, ubi agatur de extraor-

dinario aliquo consilio capiendo, rem deferent ad Collegium Auditorum universum.

3. Excepta S. Rota, cui propriis erit agendum normis, in ceteris Officiis omnibus, administri maiores, praeside Cardinali suo, Congressum constituunt.

4. Ad Congressum spectat minora negotia expendere atque expedire; de ceteris disponere et ordinare ut agantur in pleno sui cuiusque officii conventu.

5. Singula Officia sibi librum habebunt *rerum notabilium,* in quo rite indicentur nominationes, initique muneris dies Patrum Cardinalium, Consultorum, maioris et minoris ordinis Administrorum; datum iusiurandum, cessatio ab officio, et si qua forte pontificia rescripta immutationem aliquam circa cuiusque Officii competentias induxerint.

Cap II—De provisione officiorum

1. Maiores Administri cuiusque Sacrae Congregationis, Tribunalis, Officii, a Summo Pontifice libere eligentur.

2. Minoribus eligendis administris titulorum doctrinaeque certamen proponetur.

Gratiosae suffragationes non admittuntur, earumque, si intercedant, ratio habebitur nulla.

3. Certamen indicetur intra mensem a vacuo officio, acceptis ante mandatis a Summo Pontifice. Assignabitur vero spatium utile unius mensis ad exhibendam petitionem ac titulos necessarios.

4. Periculum de doctrina erit scripto faciendum certo die, quo propositae ex tempore quaestiones evolventur circa disciplinas ad petitum officium pertinentes. De proposita materia candidati in communi aula conscribent, designatis horis, advigilante Consultore aut aliquo ex minoribus eiusdem Officii administris, quem Praelatus moderator adlegerit.

5. Scripta, numeris distincta, non expresso candidati nomine, duo Consultores ordine excutient, a Congressu eligendi, et, si agatur de S. Rota, a Decano. Horum nomina Censorum occulta manebunt; iidemque quamprimum suum expriment scripto iudicium super exarata a candidatis, declarantes, quaenam ex iis, sive doctrinae laude, sive dicendi forma probentur; quaenam idonea tantum, quaenam improbanda censeantur.

6. Si Consultorum iudicia de idoneitate scripti secum pugnent, candidatus non idoneus habebitur, deficientis causa doctrinae. Verum facultas erit Congressui, et apud S. Rotam Decano, in ea iudiciorum discrepantia, exquirendi, si neces-

sarium aut aequum duxerint, Consultoris tertii suffragium, ad quem proinde remittentur priorum duorum iudicia, ut ipse proferat de summa lite sententiam.

7. Ut quis possit ad eligendorum scrutinium admitti, requiritur tamquam necessaria conditio ut probatus discesserit experimento doctrinae.

8. Scrutinium fiet a Congressu, et apud S. Rotam a Collegio Auditorum. Idem erit duplex, et in utroque suffragia erunt secreta.

In primo, suffragia ferentur de singulis candidatis, ut decernatur, quinam aetate, moribus, indole censeantur idonei. Qui paria suffragia retulerint iudicandi sunt non idonei.

In altero suffragia ferentur de singulis in primo scrutinio approbatis, ut decernatur quinam virtute, meritis, scientia, habilitate sit praeferendus. Paribus inter duos pluresve candidatos suffragiis, Cardinalis, qui Congressui praerit, et apud S. Rotam Decanus, paritatem diriment.

9. De scrutinii exitu ad Summum Pontificem integre referetur, ut, Eo probante, ad candidati nominationem deveniri possit.

10. Rationes et modi, quibus lata sint suffragia, sunt prorsus reticendi.

11. Litteras nominationis ad maiores Administros mittet Cardinalis a Secretis Status;

ad minores mittent, in S. Rota Decanus, subscripto nomine alicuius Notarii; in ceteris Officiis suus cuiusque praeses Cardinalis, contra posita subscriptione more rescriptorum.

12. Deservientium nominatio, apud S. Rotam spectat ad Collegium Auditorum; apud Officia reliqua ad suum cuiusque Praesidem Cardinalem, proponentibus maioribus Administris.

13. In uno eodemque viro cumulare munia non licet; ideoque qui ad novum adspiret munus, ad id semel assumptus, pristino cessit.

14. Ad unum idemque Officium prohibetur aditus duobus consanguineis in primo et secundo gradu, et affinibus in primo.

15. Minoribus administris, ubi inter ipsos vacaverit locus, ius est adscensus titulo ministerii provectioris; non ita ceteris.

Cap. III.—De iureiurando

Cuiusvis ordinis Administri, ante quam adsciscantur, iusiurandum dabunt, coram suo Praelato, *de officio fideliter implendo, de non recipiendis muneribus etiam sponte oblatis, et de secreto servando,* secundum formulam heic adiectam, servata lege iis Officiis quibus peculiare et gravius iusiurandum imponitur, ut communi formae particularem addant.

IURISIURANDI FORMA

"In nomine Domini.

"Ego N. N. spondeo, voveo ac iuro, fidelem et obedientem me semper futurum B. Petro et Domino Nostro Papae eiusque legitimis Successoribus; ministeria mihi commissa in hac S. Congregatione (*Tribunali, aut Officio*) sedulo ac diligenter impleturum; munera mihi in remunerationem, etiam sub specie doni oblata, non recepturum; et secretum officii religiose servaturum in iis omnibus, quae sacri Canones aut Superiores secreta servari iusserint, itemque, quoties ab Ordinariis id postulatum fuerit, et quando ex revelatione alicuius actus praeiudicium partibus aut Ecclesiae obvenire potest. Sic me Deus adiuvet, et haec Sancta Dei Evangelia, quae meis manibus tango."

Cap. IV.—De horis ac disciplina officiorum

1. Spatium temporis officio assignatum est matutinum ab hora nona cum dimidio usque ad meridiem cum semihora, singulis diebus non feriatis. Per has horas administri omnes tenentur in officio esse, non remorari, nec ab ipso ante constitutum tempus discedere, incolumi eorum privilegio, quibus officii sui lex con-

cesserit ut commissum opus possint exsequi domi.

2. Est tamen Moderatoribus facultas concedendi singulis Administris diem unum vel duos vacationis in mense, modo talis concessio cum Officii necessitatibus componi queat. Eadem conditione quotannis aut unoquoque biennio dies aliquot, non ultra hebdomadam, singulis concedere debebunt, ut piis exercitationibus vacent.

3. Morbo aut alia causa impediti quominus Officium adeant, rem Praelato significent.

4. Exceptis maioribus Administris, itemque scriba Protocolli, Diribitore atque aliis, qui sui muneris gratia debent se adeuntes excipere, ceteris non licet per horas officii visitantem quemquam admittere.

5. In sua quisque munia religiose et quam optime explenda incumbet; nec fas erit cuiquam alienam occupare provinciam, aut in sui locum substituere quempiam, aut ipse alium sufficere.

6. Verum, si Praelatus id committat, quilibet Administer se promptum exhibebit ad subrogandos collegas, atque ad alia non communia pensa quae forte sint expedienda.

7. Erit curae omnibus, maxime iis qui praesunt, ne diu negotia iaceant. Danda igitur opera ut necessaria studia, ut actorum perscriptio, ut expeditio negotiorum ea sollicitudine procedant,

quae naturae rerum tractandarum et normis Officii respondeant.

8. Quoties igitur designatae horae muneri explendo satis non sint, administri reliquum operis aut domi conficient, aut morabuntur in officio diutius, aut revertentur post meridiem, prout visum fuerit moderatori opportunius.

9. Quod si productus hic labor fere quotidianus evadat, moderatorum erit eum ex aequo remunerari.

10. Iidem Administrorum nomina, qui doctrina, diligentia, rerum agendarum peritia, vitaeque honestate praecellant, Summo Pontifici significanda curabunt.

11. Administro nemini licet *Agentis,* Procuratoris, Advocati partes assumere, neque in suo, neque in alieno Officio.

Unum eximitur procuratoris vel advocati munus in Sanctorum causis, quo munere fungi poterunt Administri minores ad SS. Rituum Congregationem non pertinentes.

12. Si quis Administer negligentia culpave suo officio defuerit, erit admonendus, aut aliqua poena multandus, aut loco movendus ad tempus, aut etiam omnino dimittendus, pro admissi gravitate aut recidendi frequentia.

13. Si autem a sacerdotis aut christiani viri aut civis officiis ita declinaverit, ut in ius rapi

debuerit, aut publicae existimationis iacturam fecerit, suo loco movebitur ad tempus, aut omnino dimittetur.

14 Aere alieno ita gravari ut aditus fiat sequestris iudicialibus, esse causa potest quamobrem quis ad certum tempus exuatur munere, aut etiam abdicare cogatur.

15. Publica inquisitione instituta de crimine adversus aliquem administrum, qui Officio praeest, officii ipsius honori tutando, simulque non gravando reo, providebit. Ad eum finem curare poterit ut accusatus ab officio recedat, et partem stipendii retinere in remunerationem suffecti in eius locum.

16. Remotio ad tempus, expulsio aut officii amissio, multae poenaeque ceterae contra administrum decernentur, nullo provocationis iure relicto, apud S. Rotam a Collegio Auditorum; in aliis vero Officiis a Cardinali Praeside, suffragante Congressu; et in utroque casu audita parte per scriptum.

De temporaria remotione aut dimissione referendum est ad SSmum Dominum, ut has poenas ratas habeat.

Cap. V.—De feriis

1. Singulis diebus festis cum praecepto Officia vacabunt.

His adduntur:

anniversarius dies creationis et coronationis Summi Pontificis;

item obitus Decessoris;

stati dies Consistoriis habendis sive publicis sive semi-publicis;

feria secunda et tertia Quinquagesimae, et quarta Cinerum;

postremi dies quatuor maioris hebdomadae, et Feria secunda et tertia Paschatis;

pervigilium Pentecostes et succedentes huic Festo dies, Feria secunda ac tertia;

pervigilium Deiparae in caelum receptae;

secundus dies mensis Novembris, in commemoratione Fidelium defunctorum;

pervigilium Nativitatis Domini et consequentes tres dies;

ultimus anni dies.

2. Feriatis diebus, Moderatores Officii curare poterunt ut aliquis ex administris Officium frequentet, expediturus negotia si quae forte occurrerint. Huic autem administro licebit vacationis dies alios petere.

3. A die decimo mensis Septembris ad

trigesimum primum Octobris decurrent Feriae autumnales.

Hoc spatio temporis Officium nullum erit intermissum; sed in unoquoque tot aderunt tum maioris tum minoris ordinis administri, quot satis esse existimentur urgentioribus expediendis negotiis ordinariae administrationis; maiorum enim tractationes, ac de gravioribus et implicatioribus rebus deliberationes in mensem Novembrem differentur. Quod si urgens rei gravitas postulet ut cito occurratur, intra merae necessitatis fines providebitur.

4. Qui feriarum tempore in officio versari debebunt, iis conceduntur vacationis dies quinque et quadraginta, sive intermissi, sive continui pro lubitu petentium, alio anni tempore ab iisdem eligendo, habita tamen ratione necessitatum Officii, atque approbante Moderatore.

Cap. VI.—De stipendiis

1. De medio sublatis emolumentis quae *incerta* vocari solent, administri omnes certo stipendio, eoque menstruo et ad honestam substentationem sufficienti, fruentur ex aerario Sanctae Sedis. Stipendii ratio pro variis administris proponetur in apposita tabula; incipietque vim habere pro iis qui in officia adsciscentur post praesentem ordi-

nationem, ac pro veteribus administris qui ad officia diversi gradus et conditionis advocentur.

2. Emolumentorum, seu *incertorum,* genus unicum derivari poterit minoribus administris ex opere in extrahendis ab archivio documentis impenso, ac transcriptione documentorum et processuum, si non ex officio fiant, sed instantibus partibus quarum intersit; dummodo tamen his rebus non detur opera horis officio destinatis, et praescripta serventur Appendicis *Legis propriae* S. Rotae cap. 2 de exigenda compensatione.

3. Qui in praesens cuiusvis gradus ac naturae officio funguntur, sua stipendia retinebunt tum ordinaria tum extraordinaria, quae tamen stabilitatis rationem habeant (*incerta certa*), et ad officium ipsum referantur; non quae speciem remunerationis praeseferant ob collocatam peculiarem operam aut extraordinarios ob titulos.

Eadem stipendia non aliunde solventur in posterum nisi ab aerario Sancta Sedis.

4. Ut autem recti iustique servetur lex, intra mensem ab edita praesenti ordinatione, singuli qui variis Officiis praesunt ad Cardinalem *Secretarium Status* administratorum omnium deferent nomina, adiecto suo cuiusque stipendio, ad norma superiori numero descriptam.

Iidem Praesules, intra memoratum tempus, recensebunt onera sive perpetua sive temporaria,

quibus Officia sua gravantur, et impensas Officii ordinarias.

5. Gradus et stipendia ad normam *num. 3* sarta tectaque manebunt Administris eorum etiam Officiorum, quae ob novam Romanae Curiae ordinationem aut prorsus desierint, aut sint natura penitus immutata.

Huiusmodi autem administri a Sanctae Sedis nutu pendebunt, et, ubi eorum postuletur opera, ad eam praestandam debebunt sese promptos ac paratos exhibere.

6. Salvis iuribus a praesentibus administris acquisitis in quibusdam Officiis ad emeritum percipiendum, ceteris omnibus in posterum, qui sive aetatis ingravescentis, sive diutini morbi causa, sustinendis rite muneribus impares fiant, Apostolica Sedes, quantum poterit, ex aequo providebit, curando ut sufficiantur ab aliis, et cavendo ne ipsis necessaria desint ad honestam sustentationem.

Cap. VII.—De advocatis

1. Firmo illorum iure qui modo legitimi habentur advocati, in posterum, ad ineundum hoc munus servandae erunt normae *tit. III legis propriae* Sacrae Rotae constitutae.

2. Exinde leges disciplinae vigebunt in memo-

rato titulo contentae, quibus aeque omnes erunt obnoxii.

3. Qui vero cupiat advocati munus exercere apud S. Rituum Congregationem in Sanctorum causis, is legitimum sibi titulum comparet Advocati rotalis, ceterisque satisfaciat consuetudinis formis, quae ab eo Sacro Consilio praescripta sunt.

Cap. VIII.—De ministris expeditionum

1. Privilegium *exclusivae,* quo Apostolici Ministri expeditionum in Datariae Officio fruuntur, ubi primum habere vim coeperit Constitutio *Sapienti consilio,* cessabit.

2. Est autem Sanctae Sedis propositum de ministrorum expeditionum, qui modo sunt, conditione ac statu cognoscere, ut in peculiaribus casibus ea possit inire consilia, que magis aequa et opportuna iudicaverit.

Cap. IX.—De procuratoribus seu agentibus

Sectio I.—*De procuratoribus particularibus et privatis*

1. Qui ad Sanctam Sedem recurrens sui particularis ac privati negotii causa uti opera velit procuratoris, potest ad id munus deputare quem-

libet suae fiduciae virum, dummodo catholicum, integra fama, et ad officium, in quo agenda sit res, minime pertinentem. Praeterea oportet eumdem legitimo mandato munire, quod in Actis, ad ipsius Officii cautionem, servabitur; aut sin minus apud Moderatores eiusdem in tuto ponere delecti viri honestatem et requisitas conditiones.

2. Si exhibitum virum Moderatores iudicaverint admitti non posse, certiorem facient mandantem, ut aliter consulat.

Sectio II.—*De procuratoribus publicis ac legitimis*

3. Ad procuratoris munus legitime et constanter obeundum pro Episcopo eiusque dioecesi, oportet inscriptum habere nomen in Procuratorum albo, quod patebit in Officio a Secretis Sacrae Congregationis Consistorialis.

4. Salvis iuribus acquisitis ab exercentibus hodie munus *Agentium* seu ministrorum expeditionis, qui, ubi postulaverint, in memoratum album referentur, posthac quicumque volet inscribi debebit petitionem, cum titulis quibus illa nititur, exhibere Adsessori S. C. Consistorialis.

5. Ad iustam admissionem requiritur ut orator catholicam fidem profiteatur, sit integra fama, calleatque satis latinum sermonem et ius canoni-

cum. Si agatur de sacri ordinis viro, oportet ab Officio Urbis Vicarii adsensum impetret Romae residendi; religiosus autem sodalis id a Praeposito generali impetrabit.

6. Iudicium de petitione, utrum ea admitti possit necne, edetur a Cardinali a Secretis S. C. Consistorialis, audito Congressu qui, ut magis explorata sit candidati doctrina, poterit ipsum experimento subiicere, prout melius iudicaverit.

7. Nihil obstat quominus Ordinarius procuratorem eligat virum nondum in album relatum; qui tamen, ante quam exerceat mandatum, inscriptionem postulabit.

Hoc autem in casu Ordinariorum prudentiae relinquitur ante videre, num cui forte obstaculo propositus procurator esse possit obnoxius, ne sese repulsae periculo obiiciant.

8. Praeter inscriptionem in album, ut quis publicus habeatur et stabilis procurator dioecesanus, necessario requirutur iustum Ordinarii mandatum ab adlecto exhibendum, cuius mandati authenticum exemplar apud Officium a Secretis Consistorialis Congregationis deponetur.

9. Munerum a procuratore dioecesano explendorum haec summa est: curare ut epistolarum commercium inter Apostolicam Sedem et Episcopum, de omnibus dioecesis negotiis, rite et cum fide procedat; ea referre, de quibus Officio alicui

praepositi, in rebus ad ipsum pertinentibus, eum sint percontati; in cognitione versari negotiorum, quae apud varia Sanctae Sedis Officia evolvuntur spectantque dioecesim, cuius habet ipse procurationem.

10. Quae scripta data sint obsignata, inviolata transmittenda sunt; neve procurator unquam ullâve de causa sibi fas esse ducat ea resignare. Qua in re cuiusvis generis culpa censebitur gravis.

11. Circa res omnes dioecesis, quarum, ratione sui muneris notitiam acceperit, nisi agatur de re publica et notoria, procurator secreto officii tenetur. Huius legis violatio culpae gravis instar habebitur.

12. Procuratoribus interdicitur ne litteras passim dimittant ad clientum aucupium, exhibentes faciliores conditiones aut similia.

13. Nemini procuratori licet pro sua opera maiorem pecuniae summam exigere quam quae pro rescriptis, brevibus, bullis officiorum Sanctae Sedis constituta sit atque descripta: quam qui fregerit legem, restitutionis obligatione tenebitur, etiam poenis aliis non irrogatis.

14. Qui christiano plane more non agat, quae conditio ad exercendum procuratoris munus est omnino necessaria, aut in memoratis officii sui partibus grave aliquid admittat, potest ad tempus removeri, aut etiam perpetuo dimitti.

15. Advocatorum Consistorialium Collegium erit *agentibus* seu procuratoribus omnibus instar Consilii disciplinae. Ex eius Collegii sententia, Cardinalis a Secretis S. C. Consistorialis (si agatur de prave acta vita sociali vel de alia publice nota culpa); aut praepositi Officio, cuius intersit (si de culpa officium spectante), poterunt ad admonitionem rei, aut ad eius remotionem sive temporariam sive perpetuam procedere.

16. Procurator, sive remotus ad tempus sive perpetuo dimissus ab uno officio, hoc ipso remotus censetur, aut omnino exclusus ab omnibus. Quare praepositi Officio, a quo eiusmodi sit prolata sententia, ceteris Officiis rem significandam curabunt.

Cap. X.—De ratione adeundi sanctae sedis officia cum iisque agendi generatim

Sectio I.—*Pro privatis*

1. Christi fideli cuique patet aditus ad Sanctae Sedis Officia, servata rite forma quae decet, et facultas est cum iisdem agendi per se de suis negotiis.

2. Advocati operâ uti volenti, in quaestionibus quae illum admittant, fas non erit patronum pro-

ponere quemlibet; sed optio ei dabitur inter approbatos, de quibus *cap. VII.*

3. Si vero Procuratoris desideret operam, eius eligendi arbitrium ipsi relinquitur, servatis tamen normis *cap. IX; sect. I* constitutis.

Sectio II.—*Pro Ordinariis*

4. Ordinarius unusquisque potest ipse per se in variis Apostolicae Sedis Officiis negotia libere tractare, non solum quae se ipsum spectent, sed etiam quae dioecesim ac sibi subditos fideles ad ipsum confugientes.

5. Quoties Ordinarius velit ipse per se de negotio aliquo agere, sive praesens in Curia, sive per litteras a sua sede mittendas, Officium praemonebit quocum ei erit agendum. Tunc vero in Positione adnotabitur: *personalis pro Ordinario;* resque nullis interpositis procuratoribus agetur.

6. Ordinarius, qui petit directe agere cum Officio aliquo, sibi assumit solvendas impensas, non modo pro acceptis redditisque litteris et scriptis, aut pro aliis rebus necessariis, sed etiam pro taxationibus praescriptis in singulis actis.

7. Si advocato fuerit opus, etiam Ordinariis cohibetur optio, ita ut nequeant ipsum deligere nisi ex approbatis.

8. Si procuratore uti velint, normis inhaerebunt *cap. IX, sect. II* declaratis.

9. Mandatum, quo ab Ordinario procurator eligitur, potest usque rescindi ad formam iuris communis; in eamque rescissionem, utpote rem ad fiduciam pertinentem, nulla datur inquirendi aut expostulandi facultas.

10. Vicario Capitulari non licet, electum ab Episcopo procuratorem cum alio mutare; at poterit cum Sanctae Sedis Officiis directo agere, ad normam *art. 4°, 5°, et 6°* huius sectionis.

Cap. XI.—De taxationibus et procurationibus

1. In omni rescripto, indulto, dispensatione, a suo Officio indicabitur, non modo taxatio Sanctae Sedi solvenda et remuneratio Agenti debita, sed etiam pecuniae summa cuius repetendae ius habet dioecesana Curia pro exsecutione rescriptorum, si haec necessaria sit; quae quidem summa pontificia taxatione erit inferior.

2. Taxatio pauperibus, sive cives privati sint, sive Instituti piaeve causae, si petita gratia moraliter necessaria sit, non lucrosa oratori, ita ut hic nullum possit ex ea quaestum facere, ex dimidia parte minuetur, aut etiam, si visum fuerit, omnino condonabitur, integris tamen oratori

manentibus impensis pro tabellariis, pro exscriptione, aliisque id genus necessariis.

His in casibus, etiam Agentis procuratio ad partem dimidiam redigetur aut omnino condonabitur, salvis impensis pro tabellariis.

3. Ordinarii, secreto percontati parochos, quae vera sit oratorum conditio, significabunt in singulis casibus, agaturne de paupere, aut quasi paupere, ideoque competatne ipsis ius ad plenam aut dimidiatam condonationem taxationis, onerata utriusque partis conscientia super expositorum veritate; contra quam si actum fuerit, firma restat obligatio sarciendi quidquid iniuria sublatum sit.

Si qui autem iniqua voluntate renuant satisfacere taxationem ad aliquam consequendam dispensationem praescriptam, cuius tamen concessio sit moraliter necessaria ad offendicula et peccata vitanda, hoc erit ab Ordinariis indicandum in suis litteris. Iidem, impetratae gratiae notitiam communicantes cum iis quorum interest, eos commonebunt (si opportune id fieri prudenterque licebit ab ipsis) ex iustitia aliquid Sanctae Sedi deberi.

Utcumque tamen gratiae valididati nihil umquam officiet error aut fraus circa oeconomicam petentis conditionem.

4. In omnibus Officiis, subsignatis rescriptis,

destinatus administer, peculiari super ipsis impresso sigillo, taxationem notabit Sanctae Sedi debitam, impensas procurationis et pecuniae summam pro exsecutione: quae omnia in menstruo libello recensebit, ad rationum computationem suique cautionem adservando.

In variis taxationibus designandis administer prae oculis habebit superius expositas normas, *positionem,* seu fasciculum actorum expendens, in dubiis vero rem ad Officii Moderatores deferet.

5. Singula Officia alterum habebunt a priore distinctum administrum diribendis litteris, rescriptis, et exigendae pecuniae taxationum ad Sanctam Sedem pertinentium.

6. In rebus secreto tegendis rescripta obserata tradentur: taxatio vero in alio notabitur folio eumdem numerum referente qui in obserato rescripto. Eadem taxationis notatio in interiore rescripti pagina iterabitur, ad securitatem recipientis.

7. Extremo quoque mense, Praelatus Officii moderator libellum inspiciet, de quo num. 4, acceptique rationem expendet; deinde utrumque ad Sanctae Sedis arcam nummariam deferet, suae auctoritatis testimonio munitum.

DISPOSITIONES TEMPORARIAE

8. Officiorum administrationem totam illico retexere quum minime detur, Sancta Sedes sibi reservat peculiares normas constituere servandas in posterum.

9. Interim nulla fiet immutatio taxationum quae legitime in usu sunt pro expeditione *Bullarum* et *Brevium* Apostolicorum.

10. Pariter in usu esse non desinunt eae taxationes, quae in causis Beatificationis aut Canonizationis descriptae habentur in lege SS. Rituum Congregationis: *de taxis et impensis pro causis Servorum Dei.*

11. Sua etiam disciplina est moderandarum taxationum, mercedum, impensarum apud S. Rotam et Signaturam Apostolicam in causis quae ad ea tribunalia deferantur.

12. Pro dispensationibus matrimonii vigere quoque pergent in praesens taxationes pendi solitae penes Datariam Apostolicam et S. Poenitentiariam. In causis vero matrimonialibus dispensationis *super rato,* et in aliis quae a S. Congregatione *de Sacramentis* indicantur, standum normis a S. Congregatione Concilii huc usque servatis.

13. Pro ceteris gratiarum, indultorum, dispensationum rescriptis, in Officiis omnibus, taxa-

tio Sanctae Sedi solvenda erit libellarum decem, si de maioribus rescriptis agatur; si de minoribus, quinque.

Remuneratio *Agenti* debita erit libellarum sex pro rescriptis maioribus: pro minoribus, trium.

Si rescriptum unum plures gratias contineat, augebitur proportione taxatio; non ita tamen Agentis procuratio.

14. In omnibus autem et singulis casibus superius, num. 9, 10, 11, 12 et 13, recensitis, incolumes semper sint dispositiones capitis VI praecedentis, *de stipendiis,* et dispositiones num. 4, 5, 6 et 7 huius capitis, de solutione pecuniae singulis mensibus arcae nummariae S. Sedis facienda.

15. Usus S. Congregationis de Propaganda Fide exemptionis e qualibet taxatione in suae iurisdictionis locis incolumis servetur.

Datum Romae, die 29 Iunii 1908.

De mandato speciali SSmi D. N. Pii Papae X.

R. Card. Merry del Val.

PARS ALTERA

NORMAE PECULIARES

Cap. I.—De ambitu competentiae singulorum officiorum Sanctae Sedis

1. Secundum praescripta Constitutionis *Sapienti consilio,* Officiorum Sanctae Sedis competentia partim territorium, partim vero materiam afficit.

a) Congregationi Sancti Officii, in suae competentiae rebus, territorii limites nulli sunt.

b) Consistorialis munia sunt circumscripta regionibus iuri communi obnoxiis, in quibus ipsa suam et cum aliis non communem habet competentiam circa ea omnia, quae ad regimen dioecesanum, ad Seminaria, ad Episcoporum aliorumque Ordinariorum electionem, ad Apostolicas visitationes, ad relationes de statu dioecesum referantur.

c) Congregationi de disciplina Sacramentorum in iis, quae matrimonium spectant, competunt quoque loca Congregationi de Propaganda Fide obnoxia, ad memoratae Constitutionis nor-

mam. Circa cetera Sacramenta competentiam habet circumscriptam regionibus iuri communi subiectis.

d) Concilii et Studiorum Congregationibus, in ipsarum competentiae negotiis, certi locorum assignati sunt limites, quemadmodum Consistoriali.

e) Congregatio Religiosorum sodalium praecipuam et propriam habet competentiam in religiosos ubicumque versantur, atque in rebus omnibus, quae statum, disciplinam, studia et sacram ipsorum Ordinationem spectant, salvo iure Congregationis de Propaganda in religiosos qua missionarios.

f) Propagandae Fidei Congregatio iurisdictionem locis et rebus circumscriptam habet, iuxta memoratae Constitutionis praescriptum.

g) Congregationibus Indicis, Rituum, pro Negotiis ecclesiasticis extraordinariis, Caeremoniali, itemque Tribunalibus tum interni tum externi fori, pro suae competentiae negotiis, nulli sunt constituti territorii limites.

2. Etsi, abrogata iurium cumulatione in Sanctae Sedis Officiis, sua cuique negotio sit constituta sedes; nihilominus, quia in peculiaribus casibus dubitationi aut errori locus esse potest, firma manet antiqua lex, qua, delato et excepto ab aliquo Officio supplici libello pro impetranda re sive ad gratiam pertinente sive ad iustitiam, nemini

ulla de causa licet aliud suo marte Officium ad eumdem finem adire; sed opus est adsensu Officii ipsius quocum agi coeptum est, aut Congregationis Consistorialis decreto, quo venia detur transmittendi negotii.

Quaevis concessio ab Officio alio profecta, contra memoratam legem, irrita esto.

3. In expostulationibus ad Sanctam Sedem, si libellus ad S. Rotam delatus est, Decanus cum duobus Auditoribus primis; si ad aliquam Congregationem, ordinarius eiusdem Congressus, de quaestionis natura videbunt, utrum res administrationis ac disciplinae tramite tractanda sit, an summo iure agendum.

Horum primum si accidat, iudicium quaestionis reservatur sacrae Congregationi cui competit, ad normam Const. *Sapienti consilio.*

Alterum si fiat, quaestio ad proprios iudices ac sua tribunalia deferatur ad normam iuris communis definienda, salvo semper proprio Signaturae Apostolicae procedendi modo.

Cap. II.—De iis quae plenae congregationi reservantur et congressui tribuuntur

1. In sacris omnibus Congregationibus communiter iudicio Patrum Cardinalium, quibus ipsae constant, (vel, uti vulgo dicitur, plenae

Congregationi) est reservata solutio dubiorum omnium aut quaestionum de iure interpretando; examen controversiarum ordinis administrationem ac disciplinam spectantis, vel per se vel ob adiuncta graviorum; disceptatio de gratiis ac facultatibus maioris momenti, iisdemque vel per se vel ratione modi insuetis: acta denique omnia publici ordinis atque communis, sive praeceptiones ea sint sive praescriptiones.

2. Ad Congressum pertinet ea praeparare quae ad plenam Congregationem erunt deferenda; deliberata exsequi post approbationem Summi Pontificis; eadem casibus aptare similibus, ubi res perspicua sit, obvia, nullique obiecta controversiae; largiri pro potestate a Pontifice Maximo facta, facultates, gratias, indulta, quae consueta sint et facilia; providere ut quae in Officio geruntur, omnia rite procedant secundum normas tum communes tum peculiares huius legis, et Constit. *Sapienti consilio.*

Cap. III.—De modo tractandi negotia non stricte iudicialia

Art. I.—*Quando agitur de rebus gratiae*

1. Si gratiae, seu facultates, dispensationes, indulta, quae quis a Sancta Sede postulet, ius aliis quaesitum laedant; ii, quorum interest, aut

directo aut per Ordinarios suos ante concessionem audiendi sunt.

2. Gratiae, quas quis pro se a Sancta Sede oretenus assequitur, ipsi petenti in foro conscientiae suffragantur. Nemo tamen potest cuiuscumque privilegii usum adversus quemquam vindicare, nisi privilegium ipsum legitime probet.

3. Gratiae, quae a Sancta Sede scripto conceduntur, communiter ab ipsa directo promanant per personas et Officia iure recognita. Quandoque vero supplex oratoris libellus ad Ordinarium, vel ad alium eius loco ecclesiasticum virum, per personas et Officia memorata remittitur, cum facultatibus petitam gratiam largiendi, sive totam sive certis limitibus circumscriptam.

Quum preces ad Ordinarium cum facultatibus remittuntur, eius aequo iudicio rectaeque conscientiae imploratae gratiae largitio permittitur, habita ratione formae rescripti, rerum Sanctae Sedi expositarum, et opportunitatis gratiae concedendae.

Ubi vero ab ipsa Sancta Sede, interposito nemine, gratia impertiatur, exarari rescripta possunt, aut forma gratiosa aut commissoria.

4. Si forma gratiosa, exsecutorem suapte natura non postulant. Exhibenda tamen Ordinario sunt, qui ea suo *recognitionis* rescripto

roboret, si de rebus agatur publicis, cuius generis indulgentiae sunt communiter impertitae, sacrae reliquiae publicae venerationi proponendae, aliaque huiusmodi; aut si comprobare conditiones quasdam oporteat, uti loci decorem in sacellis privatis, aliaque id genus.

Si vero commissoria forma rescripta expressa sint, opus habent exsecutore. Nec licet Ordinario exsecutionem detrectare, nisi forte horum alterutrum occurrat, ut aut manifesto vitiosae, hoc est obreptitiae vel subreptitiae sint preces, aut qui gratiam impetravit adeo videatur indignus, ut aliorum offensioni futura sit indulti concessio. Heac si accidant, Praelatus, intermissa exsecutione, statim ea de re certiorem faciet Apostolicam Sedem.

5. Pro recognitionis testimonio, quo rescripta muniuntur, ut est in superiore *num. 4,* nulla est repetenda compensatio. Necessariae tamen impensae sarciri possunt, quales ex. gr. occurrunt ad loci cognitionem in sacelli usum adhibendi, aut ad fidei comprobationem circa aliquam sacram reliquiam.

6. Servatis, tum quae superiore *num. 4* statuta sunt circa rescriptorum exsecutionem, tum necessariis conditionibus ad sacras indulgentias lucrandas; a die III mensis Novembris MDCCCCVIII, quo die incipient vim legis habere praescripta in

Constitutione *Sapienti consilio,* gratiae ac dispensationes omne genus a Sancta Sede concessae, etiam censura irretitis, ratae sunt ac legitimae, nisi de iis agatur qui nominatim excommunicati sint, aut a Sancta Sede nominatim pariter poena suspensionis a divinis multati.

Art. II.—*Quando agitur de causis ordinis disciplinam et administrationem spectantis*

7. In causis apud sacras Congregationes administrationis ac disciplinae tramite agitandis, remota litis contestatione, exclusa auditione testium nullisque scriptis patronorum receptis habebitur quaestio; audientur tamen semper partes quorum interest, ad iisque producta documenta excutientur.

8. Ut ii, quorum interest, suam causam dicere valeant, erunt praemonendi, vel per suos Ordinarios vel directo, ad iuris communis normas.

9. Quod si pro re sua typis edere ac distribuere scriptum suum aliquod vellent, facere hoc poterunt, servatis normis statutis in *can. 29 Legis propriae* S. Romanae Rotae, congrua congruis referendo.

10. Quaestione semel instituta penes Congregationem aliquam administrationis ac disciplinae tramite, et a partibus admisso aut saltem non re-

cusato hoc agendi modo; his iam non licet eadem de causa actionem stricte iudicialem instituere.

Eoque minus, deliberata re atque ad sententiam deducta, fas erit hoc agere.

Est nihilominus Congregationi sacrae facultas, quovis in stadio quaestionis, ad idices ordinarios causam deferre.

Cap. IV.—De diebus quibus cardinalium coetus coadunantur ac de modo procedendi plenarum congregationum

1. Stati dies habendis coetibus Patrum Cardinalium erunt

dies Lunae	pro	SS. CC. Propagandae Fidei, et Indicis;
" *Martis*	"	Rituum, Caeremoniali, et Studiorum;
" *Mercurii*	pro	S. C. Sancti Officii;
" *Iovis*	pro	SS. CC. Consistoriali, et pro Negotiis ecclesiasticis extraordinariis;
" *Veneris*	"	Sacramentorum, et religiosorum Sodalium;
" *Sabbati*	pro	S. C. Concilii, et pro Signatura Apostolica.

In Officiis, quae unum eumdemque suis conventibus agendis habent constitutum diem, ipsorum Moderatores consilia inter se inibunt de iisdem habendis per hebdomadas diversas.

2. Si quaestio eiusmodi sit, quae plenae Congregationis iudicium postulet, conficiendum erit officiale folium, compendio collectam quaestionem exhibens, cum adiecto brevi summario ac dubiis ad excutiendum propositis.

In gravioribus aut difficilioribus sive de facto sive de iure quaestionibus, singularum Congregationum Moderatores curabunt unius vel alterius Consultoris rogare sententiam, officiali folio adiiciendam.

3. Folia officialia, Consultorum *vota,* quidquid proelo edi debeat nomine Officiorum Sanctae Sedis, documenta ipsa aut defensiones, quae partes exhibere velint, ubi agatur de criminum aut matrimonii causis prudentius cautiusque tractandis, haec omnia Vaticanis typis imprimenda tradentur. Cetera aliis etiam officinis committi poterunt, quae a Cardinali a secretis Congregationis Consistorialis in suo Congressu probatae sint, et in quibus cautum sit circumspectioni pro variis casibus necessariae.

4. Scripta typis impressa Patribus Cardinalibus dispertientur decem saltem ante diebus quam Congregatio habeatur.

5. Qui typis edita folia scriptave alia receperint, quae, sive positivo praecepto sive rei delicatiore natura, postulant secreti religionem, de arcano servando erunt maxime solliciti; idque, non per dies tantum rei studio tributos, sed etiam posthac, quamdiu impressa ea folia scriptave domi retinuerint.

Iidem curare debebunt, ut, post obitum, ea documenta suo quaeque Officio inviolata restituantur.

Hac lege aeque obstringuntur uniuscuiusque Officii administri, Consultores et Patres Cardinales.

Easdam qui chartas alio deferat, debitis modis ac tutiore via transmittendas curabit.

6. Nulla fit immutatio in recepto more quo sacrae Congregationes quaedam in certis negotiis, aliquot ante dies quam Patrum Cardinalium cogatur coetus, convocant Consultorum collegium, ut eorum sententiam rogent.

Summam hanc sententiarum postulare poterunt semper Moderatores Congregationum aut Patres Cardinales aliis etiam in causis, praeter ordinarias, modo sint maioris momenti.

7. In Patrum Purpuratorum coetibus primus sermonem instituet Cardinalis Ponens, seu relator, si aderit; eo absente, aut post ipsum, Cardinalis priorem obtinens locum; subinde ceteri ex

ordine; denique Cardinalis Praefectus aut eius vice fungens.

8. Quae sacrae Congregationi aut plerisque illorum, qui interfuerunt, decernenda visa sint, ea, constanti lege, cui derogabitur numquam, exarari scripto debebunt, perlegi et pro contione approbari.

Eadem servabitur lex in Consultorum conventibus.

9. Si nihil obstet, sententia, in quam sacer Ordo devenit, a Praelato a secretis, in suo Officio evulgabitur; et de ea scriptum aut typis impressum exemplar tradetur omnibus eiusdem Congregationis Cardinalibus in Urbe residentibus.

10. Sententia evulgata, parti oneratae licet intra dies decem novae audientiae beneficium flagitare. Cardinali autem Praefecto, audito Congressu, arbitrium erit eius beneficii concedendi aut recusandi, prout rerum adiuncta suaserint.

Quod si Patrum Cardinalium deliberatio secumferat clausulam *amplius non proponatur,* non poterit novae audientiae beneficium concedi, nisi ab ipsa Congregatione universa.

11. Expensae, quas partes in causis agendis coram sacris Congregationibus obierint, generatim repeti non possunt.

Attamen cum pars vocata ad suum ius persequendum, per contumaciam defuerit, si postea

velit rem indicatum referre, hoc est, causam denuo cognoscendam proponere, debebit aut se de contumacia purgare, aut congruam pecuniae summam deponere, qua impensae sarciantur diligentem partem aut Sanctae Sedis Officium rursus gravaturae.

Item si quis absque legitima causa temere postulet ut quaestio in plena Congregatione proponatur, Cardinalis Officii praeses una cum suo Congressu exigere ab instante poterit, ut congruam summam ad eumdem finem, ut supra, deponat.

Cap. V.—De relationibus Summo Pontifici agendis

1. In relationibus Pontifici Summo faciendis iuxta memoratam Constitutionem, curae erit, pro implicatioribus saltem negotiis, scriptum rei compendium prae oculis habere quod deinde in tabulario adservabitur una cum resolutione, appositis die et anno subscriptoque nomine referentis.

2. Si Romano Pontifici visum fuerit aliquid a Sacra Congregatione deliberatum immutare, de hac re certiores fient Emi Patres in proximo coetu, ad ipsorum normam.

CAP. VI.—DE MUNERE VARIORUM ADMINISTRORUM COMMUNITER

1. Praelatus, ad quem, quovis nomine, moderatio Officii a secretis proxime spectat, ut est *num. 2., cap. 1. Norm. comm.* huius legis, providebit ut negotia, qua par est celeritate ac diligentia expediantur, secundum normas constitutas.

Ad eum pertinet maiorum praesertim negotiorum tractatio, et cura ut, quae ad eadem referuntur, epistolae ac rescripta redigantur.

Ipse Consultoribus committit studium causarum, seu *positionum,* de quibus dicant rogati sententiam; eosdem convocat quoties oportet, eorumque coetibus praeest.

Interest Congregationibus Patrum Cardinalium, notat formâ praescripta quae ipsi decreverint, et ad Sanctissimum Patrem refert statis diebus, quibus ei facta sit Ipsum adeundi Potestas.

Pro Cardinali Officii praeside, si desit, Congressus habet ac moderatur. Salvis autem peculiaribus cuiusque Officii normis, communiter eius actis cum Cardinal subscribit.

Admnistrationi pecuniae advigilat, eamque dirigit secundum legis huius praescripta *num. 7., cap. XI. Norm. comm.* Prudenti eiusdem

iudicio relinquitur decernere, utrum praestet, ad eos, qui directam petierint expeditionem negotii tributo gravati, rescriptum, tamquam rem creditam, transmittere, an postulare ut ante solvatur.

Iuxta praescriptum Constit. *Promulgandi,* quae hac ipsa die vulgatur ac praesentis legis pars, moderatoribus *Commentarii officialis de Apostolicae Sedis actis* ipse tradere tenetur exemplaria decretorum Officii sui, quae promulgari debent. Quae vero utiliter evulgari possunt, eisdem tradet, Cardinali Officii praeside consentiente. In utroque casu, ea subsignabit, aut ab alio administro subsignari iubebit, in fidem et testimonium veritatis.

Si quae cum aliis S. Sedis Officiis communicari aut eisdem tradi debeant, et in omnibus ubi gravius aut urgentius quid accidat, Cardinalem praesidem semper conveniet.

2. Fungentes pro Praelato a secretis, aut Substituti, debent non solum praescriptas officii sui partes exsequi omnes, sed etiam adiumento esse Praeposito in iis omnibus quae ipse postulet, eiusque absentis aut impediti vice munus implere.

3. Studii adiutores, seu informatores (*minutanti*), debent:

a) in sua quisque causae, seu positionis, studio versari, in iisque praeterea quas ipsis Officii Praepositi cognoscendas committant; eas

in epitomen cogere distincto in folio, quod velut indicem positionis exhibeat actorumque seriem, quae deinceps adiecta sunt. Eo compendio non egent expostulationes aut supplices preces paucis contentae verbis, et quae forte longius non protrahentur;

b) interesse Congressui, ut de commissis ad cognoscendum negotiis referant, suamque sententiam proponant, cauto primum, ut, exceptis urgentioribus casibus aut positionibus, de quibus in litt. *a,* relatio semper fiat ex scripto ante compendio; deinde, ut in maioribus ac difficilioribus causis positio cum adiecto compendio, antequam cogatur coetus, ad Praelatum Officio praepositum deferatur, ab ipso vel per se vel per alium primi ordinis administrum expendenda quo plenius atque facilius possit de causa penitus cognita in Congressu dicere;

c) epistolas et rescripta de rebus ad suam positionem pertinentibus, aut sibi commissis, ductu maiorum administrorum exarare, et statuere quomodo sint transmittenda, utrum et quodnam sive ordinarium sive speciale tributum solvendum sit, an fiat exemptioni locus;

d) officiale folium et summarium documentorum maioris momenti conficere, quum res erit ad plenam Congregationem referenda; eius imprimendi curam suscipere, typicas formas emen-

dare. In hoc autem redigendo folio vigentem consuetudinem retinebunt; et ubi res postulaverit, inserent iuris et facti animadversiones vel necessarias vel utiles ad iustam solutionem quaestionis.

4. Adiutoribus, et, si fieri potest, etiam scriptoribus, sua cuique negotia erunt, materiae aut regionis ratione divisa.

5. Adiutores laurea doctoris oportet esse insignitos in sacra thelogia et in iure canonico.

Iidem in Congregationibus praesertim, quorum negotia regionis ratione divisa sunt, unam saltem callebunt ex his linguam: gallicam, germanicam, anglicam, hispanicam, lusitanam. Curabunt autem Praepositi ut in Officio a secretis sermones hi omnes intelligantur; cuius rei gratia opportunum erit, candidatis, etiam ad alia inferiora officia, tamquam conditionem proponere, ut vel unam ex memoratis linguis, pro casibus ac necessitate sciant.

6. Scriptorum amanuensium est, Officii epistolas et rescripta e positione exscribere, et quae paucis recepto usu indicata sint verbis, ea fusius evolvere.

Curam omnem adhibebunt, ut quavis menda scriptura careat; nec subscribenda tradent, nisi prius attente perlegerint. Huic diligentiae qui desit identidem, praebere poterit causam, cur

in ipsum severius animadvertatur. Absoluta scriptione, nomen suum et cognomen initialibus litteris positioni adiicient in confecti operis testimonium.

Epistolae ac rescripta redigentur communiter in foliis, quae inscriptum gerant suae Congregationis nomen, induentque formam ex instituto Romanae Curiae vigentem.

7. Qui conficiendis tabulis, seu *protocollo,* dant operam, in librum et in parvam rubricam documenta referent actaque Officio exhibita; relatarum in album rerum indicium, vulgo *oculum* folio vel positioni apponent; rite digestum habebunt librum *rerum notabilium;* positiones in tabularium nondum relatas ordine disponent, eas dividentes pro sua quamque dioecesi et pro annorum ac mensium serie, secundum progredientem protocolli numerum.

8. Tabulario addicti, eidem recte ordinando vacabunt; positiones resument; utrumque indicem conficient alterum litterarum ordine digestum, referentem petentium nomina, aut eorum contra quos expostulatum sit, in causis alicuius momenti; alterum ordine materiae, res maiores complectentem quae anni decursu actae sint; denique muniti scripto mandato in actis adservando, petita documenta exscribent, eaque exempla cum primo concordare declarabunt.

9. Ad officium expeditionis pertinent ratiocinator, et distributor qui etiam arcarii fungetur munere.

10. Ratiocinatoris erit in menstruum folium referre (de quo huius legis *num. 4 cap. XI Norm. comm.*) rescripta omnia taxationi obnoxia, indicata dioecesi, numero protocolli ac pecunia Sanctae Sedis solvenda, a maioribus administris aut adiutoribus taxata; ex ea taxatione supputare, servatis normis in memoratis locis huius legis descriptis aliisque seorsim exhibendis, expensas procurationis et exsecutionis si id negotii fuerit Ordinario commissum; in tergo rescripti, vel distincto in folio secundum praescripta *num. 6*, memorati *cap. XI*, impresso signo vim pecuniae solvendam notare; eamque, ubi de maiore agatur pecuniae summa, exprimere integris litteris.

11. Distributoris munus erit:

a) partibus quarum interest, aut ipsarum procuratoribus seu agentibus, acta, litteras, rescripta distribuere; pecuniam exigere Sanctae Sedi debitam, si quae sit, eamque in arcae folio notare;

b) prospiciet ut epistolae et fasciculi actorum, in Urbe distribuenda, ad eos, ad quos pertinent, apparitorum adhibita opera mittantur: quae vero extra Urbem ex officio mit-

tenda sunt ea per publicos cursores transmittantur;

c) litteras et rescripta, quae occlusa mittenda sunt iuxta *num. 6* memorati *cap. XI*, praeposita nominis et loci inscriptione, obserabit;

d) ante vero quam acta tradat vel mittat, inspiciet sintne ipsis rite subscripta nomina; eaque sigillo munienda curabit, secundum Officii normas;

e) acta taxationi obnoxia numquam dimittet ante solutam pecuniam, nisi scripta Praepositorum accedat auctoritas. Quam si cautelam neglexerit, in se periculum recipiet, expletoque mense, de suo restituet;

f) distributoris quoque munus est, Praepositorum auctoritate, officiales curare sumptus pro necessaria tabularii seu *cancellariae* suppellectili sive comparanda sive instauranda;

g) tandem si quis Ordinarius petierit ad se directo aliquid mitti, simulque aliquam pro expensis pecuniae vim ad Sanctam Sedem expedierit, distributoris erit missam ad Officium a secretis pecuniam servare, cuius partem administrationi oeconomicae S. Sedis debitam, impetrata gratia, tradet; reliquum, arbitrio mittentis adhibendum, retinebit.

Ad hunc finem, accepti et expensi tabulas

peculiares habeat, omnium rationem Praelato a secretis sub exitum mensis redditurus. Pecunia vero in Officii arca, distincto loco, servetur.

12. In Officiis, ubi propter negotiorum numerum unus distributionis administer non sufficiat, alius adiicietur. Munia superius recensita, prudenti Moderatorum arbitrio, inter utrumque dividentur, ita ut uni cura sit praesertim distributionis litterarum, alteri rescriptorum et perceptionis taxatae pecuniae.

13. Tabularii, protocolli, expeditionis et scriptionis administri censentur inter se pares. Patet igitur iis transitus de uno in aliud officium ex prudenti Moderatorum iudicio, nullo ulterius indicto certamine.

14. A mox recensitis officiis ad munus adiutoris nullus datur adscensus. Quare, vacuo adiutoris officio, peculiare certamen indicetur.

15. Etsi, quod supra dictum est, sua cuique definita sint munia, firma tamen communis manet lex, qua omnes administri debent absentium partes mutua vice supplere, ac fraterna caritate alter alteri adiumento esse, prout aequum Praepositi iudicaverint.

16. Apparitores seu ianitores debent aedes sibi commissas custodire, earum nitorem curare, epistolas et actorum fasciculos ad quos spectant, vel ad stationes tabellarias ferre, aliaque pera-

gere quae a Moderatoribus commissa habeant in sui Officii commodum.

Salvis, si quae sint, iuribus acquisitis a praesentibus Officiorum apparitoribus, ceteri ex eo numero posthac eligentur ad triennium, eaque nominatio poterit ad ulteriora triennia prorogari, prout ipsi sese integros idoneosque probaverint.

Omnes denique iusiurandum interponent de secreto servando in sui Officii rebus huic nexui subiectis.

Cap. VII.—De singulis sacris congregationibus

Art. I.—*Congregatio Sancti Officii*

1. Huius Congregationis administri maiores, post Cardinalem a secretis, sunt Adsessor et *Commissarius.*

2. Consilium constabit, ut ante, Consultoribus a Summo Pontifice nominandis. Praeter Consultores, pergent esse nonnulli Censores, vulgo *Qualificatori.*

3. Minores administri ad cetera, quae retinebunt, munia, adiunctam habebunt indulgentiarum expeditionem.

4. Unus e substitutis notariis officium sibi assumet imponendae taxationis rescriptis, qui-

bus dispensatio conceditur ab impedimentis *disparitatis cultus* et *mixtae religionis,* aut impertiuntur indulgentiae.

5. Alterius erit epistolas et rescripta distribuere debitamque pecuniam exigere.

6. In tractandis negotiis, quae ad catholicam doctrinam moresque pertineant, et in iudicio ferendo de criminibus haeresis aliisve suspicionem haeresis inducentibus, atque in iis omnibus quae ad dispensationes ab impedimentis disparitatis cultus et mixtae religionis referuntur, Congregatio Sancti Officii suo more institutoque procedit, sibique propriam consuetudinem retinet, servatis normis in hac lege constitutis, quantum cum necessaria S. Officii disciplina componi possint.

Congruenter ad haec, dubia quae circa competentiam Sancti Officii in aliqua re oriri possunt, ipsamet haec Congregatio per se dirimet, servatis semper terminis a Constitutione *Sapienti consilio* praefinitis.

7. Mos procedendi S. Officii, de quo in superiore *num. 6.* itemque temporalis suae administrationis gerendae ratio, quamprimum erunt scripto redigenda, et postquam a Patribus Cardinalibus revisa fuerint, per Cardinalem a secretis Summo Pontifici erunt subiicienda ut approbentur.

8. *Circa indulgentias,* in ea parte quae est disciplinae et gratiae, nova Romanae Curiae ordinatione Sancto Officio tributa, haec Congregatio adhaerebit normis ea de re propositis a Clemente IX in Constit. *In ipsis* die VI mensis Iulii a. MDCLXIX, quae lex plene vigebit. Ipsius igitur erit "omnem difficultatem ac dubietatem in indulgentiis emergentem, Romano Pontifice circa graviora difficilioraque consulto, expediendi; ac, si qui abusus in eis irrepserint, illos, iudicii forma plane postposita, corrigendi et emendandi; causas vero iudicialem formam requirentes ad proprios iudices remittendi; falsas, apocryphas indiscretasque indulgentias typis imprimi vetandi; impressas recognoscendi et examinandi ac, ubi Romano Pontifici retulerit, illius auctoritate reiiciendi; ac in concedendis indulgentiis moderationem adhibendi."

Firma pariter manet lata lex per decretum sacrae Congregationis Indulgentiarum ac Reliquiarum a Benedicto XIV approbatum die XXVIII mensis Ianuarii a. MDCCLVI, et a Pio IX confirmatum die XIV Aprilis MDCCCLVI, hoc est: "Impetrantes posthac generales indulgentiarum concessiones teneri, sub poena nullitatis gratiae obtentae, exemplar earumdem concessionum ad Secretariam sacrae Congregationis deferre."

9. Rebus huius partis liber protocolli destina-

bitur ac distintum tabularium. Erunt etiam et administer maior titulo Substituti, et peculiares Consultores.

10. Congressus pro his negotiis constabit Cardinali a secretis, Adsessore, Commissario et Substituto indulgentiarum.

11. Administri, Consultores, Cardinales, quibus de hisce rebus erit agendum, non obstringentur circa eas speciali vinculo secreti S. Officii, sed communi a praesenti lege praescripto.

12. Indulgentiarium petitiones, dubia, occurrentes quaestiones, relata prius in librum protocolli, ad Substitutum transmittentur primo eius examini subiicienda.

13. Si, quemadmodum superius praescriptum est *cap. II. Norm. pecul.*, agatur de gratia, quae secundum vigentem consuetudinem communiter concedi soleat, et si dubiorum et quaestionum solutio obvia et perspicua fiat ex iam probatis receptisque sententiis, res in Congressu diiudicari poterit, ad normam facultatum, quas Pontifex Maximus concedendas censuerit.

Sin aliter, res in plena Congregatione tractabitur cum folio officii per Substitutum redigendo, atque uno aut pluribus Consultorum suffragiis. De soluta vero quaestione relatio erit peragenda Pontifici.

14. Mittentur per Breve indulgentiae perpe-

tuae, itemque ex temporariis illae, quae totam dioecesim, provinciam, regionem, vel universam Ecclesiam complectuntur: tum etiam facultates perpetuae applicandi indulgentias alicui piae supellectili.

Substitutus ab indulgentiis cum Cancellario Brevium communicabit de rebus necessariis ad exsecutionem Brevis.

15. Epistolae ac rescripta de indulgentiis a Congregatione Sancti Officii exarata, subscriptum gerent nomen Cardinalis a secretis, aut alicuius ex Emis Patribus eiusdem sacri Consilii, contra posita subscriptione Adsessoris, eoque impedito, Substituti ab indulgentiis.

Art. II.—*Congregatio Consistoriali*

1. Post Cardinalem a secretis, maiores administri sunt Adsessor et Substitutus.

2. Collegium erit Consultorum, iuxta praescriptum Constitutionis *Sapienti consilio.*

3. Habebitur quoque sufficiens administrorum minorum numerus pro expediendis negotiis huius Congregationis propriis, iuxta statuta in *cap. VI* praecedenti.

4. Praeter commune iusiurandum, omnes qui aliquo munere in hac sacra Congregatione funguntur, illud etiam dabunt, quod Sancti Officii iusiurandum dicitur, his verbis expressum:

"In nomine Domini.

"Ego N. N. sub poena excommunicationis latae sententiae ipso facto et absque alia declaratione incurrendae, a qua, praeterquam in articulo mortis, a nullo nisi a Summo Pontifice, ipso quidem Cardinali Poenitentiario excluso, absolvi possim; et sub aliis poenis etiam gravissimis arbitrio Summi Pontificis mihi in casu transgressionis infligendis, spondeo, voveo ac iuro, inviolabile secretum me servaturum in omnibus et singulis iis quae ad Episcoporum, Administratorum Apostolicorum aliorumque Ordinariorum electionem, vitam, mores agendique rationem delata sint; itemque in omnibus quae ad dioecesum erectionem seu earumdem unionem spectant, exceptis dumtaxat iis, quae in fine et expeditione eorumdem negotiorum legitime publicari contingat: et hoc secretum me servaturum cum omnibus qui eodem iuramenti vinculo constricti non sint, et cum iis etiam qui quamvis hoc secreto teneantur et ad Congregationem Consistorialem pertineant, nihilominus in Urbe habitualiter non commorantur; neque umquam, directe, nutu, verbo, scriptis, aut alio quovis modo et sub quocumque colorato praetextu, etiam maioris boni aut urgentissimae et gravissimae causae, contra hanc secreti fidem quidquam commissurum, nisi peculiaris facultas aut dis-

pensatio expresse mihi a Summo Pontifice tributa fuerit.

"Denique si supplices libellos, commendationes aut litteras de memoratis negotiis a qualibet persona receperim, sacrae Congregationi rem patefaciam.

"Sic me Deus adiuvet, et haec sancta Dei Evangelia, quae meis manibus tango."

5. Invitationes ad sollemnia pro decernendis Sanctorum Caelitum honoribus, ad aliasque sacras celebritates, fient per huius Congregationis epistolas.

6. Plenae Congregationi ius competit nominandi Episcopos omnes, stabiles Ordinarios dioecesanos, Visitatores Apostolicos dioecesum. Ad eamdem pertinet novas dioeceses constituere, constitutas unire; canonicorum collegia, seu *capitula,* erigere; Visitatorum atque Ordinariorum de statu suarum dioecesum relationes expendere; dioecesano regimini ac Seminariis universim prospicere; specialiter vero iis omnibus occurrere quae graviora videantur, prout ante praescriptum est; denique in conflictatione iurium dubia solvere circa competentiam omnium Officiorum, excepta Congregatione Sancti Officii, quae ipsa per se de sua competentia iudicabit, iuxta superius dicta.

In Episcopis nominandis, quoties id ei com-

petat, Congregatio Consistorialis inhaerebit normis Constitutionis *Romanis Pontificibus,* diei XVII mensis Decembris MDCCCCIII.

7. Ad Congressum pertinet, praeter ea quae communibus huius legis normis sunt constituta, nominare Administratores Apostolicos temporarios dioecesum, ubi necessitas urgeat; acta omnia conficere ad praeparandam positionem super eligendis in Italia Episcopis, et ad reliqua in plena Congregatione discutienda; ea providere quae dioecesum ac Seminariorum ordinarium regimen spectant, qualia sunt dispensationes Episcopis a commorando in sua sede, facultas iisdem protrahendi relationem de statu dioecesis, aliaque huiusmodi; quaecumque denique ad solvendam pro eiusdem Congregationis actis pecuniam referuntur.

8. Relationes de statu dioecesum, nisi gravior urgeat providendi ratio, ad plenam Congregationem non deferentur seorsim singulae, sed pro variis provinciis regionibusve coniunctae.

Adiutor autem in redigendo summario res adnotabit maioris momenti, sive quae bene sive quae male successerint.

9. Idem fere servabitur in relationibus Visitatorum Apostolicorum.

10. Nominationes omnes, quae solent in Consistorio promulgari, non aliter fient, nisi per

litteras signo Romani Pontificis impressas, seu per Bullam.

Eadem ratione decreta mittentur alicuius novae constituendae dioecesis, aut canonicorum collegii, seu capituli, aut uniendarum dioecesum.

11. Administri maiores Congregationis Consistorialis significationes opportunas ad Bullam conficiendam maioribus Cancellariae administris exhibebunt. Eiusmodi significatio in Cancellaria retinebitur, et Bulla, debito sigillo et subscriptione munita secundum proprias Cancellariae Apostolicae normas, quamprimum transmittetur ad Officium a secretis Congregationis Consistorialis.

12. Quae pro Bullae expeditione imponetur solvenda pecunia, Congregationi Consistoriali tradetur integra.

Ad hunc finem administri maiores aut adiutores Congregationis Consistorialis constituent pretium, quod referetur in librum; et ab administris expeditionum secundum normas communes percipietur.

Art. III—*Congregatio de Sacramentis*

1. Maiores administri, post Cardinalem Praefectum, erunt Praelatus a secretis et Subsecretarii tres.

2. Theologi et sacri iuris periti aliquot, a Summo Pontifice delecti munere Consultorum fungentur.

3. Aderit quoque congruus administrorum minorum numerus.

4. Ex tribus Subsecretariis unus, cum adiutore ac scriptoribus aliquot, in petitiones omnes circa impedimenta matrimonii praecipue incumbet.

5. Alter Subsecretarius, cum adiutore ac scriptoribus aliquot, ceteras curabit preces ad matrimonia pertinentes, uti sanationes in radice, natalium restitutiones, quaestiones de iustis aut irritis coniugiis vel de dispensatione in matrimonio rato, dubia, et huiusmodi alia.

6. Tertius Subsecretarius, cum adiutore et aliquot scriptoribus sacrae Ordinationis aliorumque Sacramentorum rebus, excepto matrimonio, vacabit.

7. Protocolli duo libri sunto; alter precum pro dispensationibus ab impedimentis matrimonii; alter postulationum ceterarum, sive quae ad matrimonium sive quae ad reliqua Sacramenta referantur.

Bini administri primo protocolli libro redigendo praecipuam operam dabunt; bini secundo.

8. Etiam tabularium duplici parte constabit; altera, cui erunt reservatae positiones dispensa-

tionum ab impedimentis matrimonii, altera pro ceteris.

9. Potestas huius Congregationis propria statuta est a Constitutione *Sapienti consilio*.

10. Peculiariter vero ad eam pertinet has concedere facultates, quae ad omnem tollendam ambiguitatem heic recensentur, hoc est:

a) adservandi SSmam Eucharistiam in templis aut in sacellis eo iure carentibus;

b) celebrandi Sacrum in sacellis privatis, et cetera largiendi privilegia quae in hac re concedi solent, ipsius decori sacelli advigilans;

c) erigendi altaris ad litandum sub dio;

d) celebrandi ante auroram et post meridiem;

e) legendi Missam feria V in Coena Domini, itemque tres Missas Nativitatis Domini, noctu, in sacellis privatis, cum distributione SSmae Eucharistiae;

f) utendi pileolo vel capillamento in celebratione Missae aut in deferenda SSma Eucharistia;

g) coeco aut coecutienti ut litare possit cum facultate legendi Missam votivam B. M. Virginis aut pro defunctis;

h) celebrandi Sacrum in navibus;

i) Episcopum consecrandi die alio ab iis qui in Pontificali Romano statuti sunt;

k) sacros Ordines extra tempora conferendi;

l) eximendi fideles, ipsosque Sodales religiosos, quoties opus sit, a lege ieiunii eucharistici.

11. Plenae Congregationis iudicio reservatur:

a) in re ad matrimonium pertinente, examen petitionum dispensationis ab impedimentis difficultatem non communem exhibentibus, sive ea exsurgat ex natura rei sive ex dubio de legitima dispensandi causa; separatio coniugum non pacifica; sanationes in radice; natalium restitutiones difficilioris negotii, cognitio causarum irriti matrimonii ac dispensationum super matrimonio rato, quae plenae Congregationis iudicium postulent; denique dubia omnia iuris circa disciplinam sacramenti matrimonii, quibus obvia et perspicua solutio nulla inveniatur in causis alias decisis, prout superius dictum est;

b) in ceteris Sacramentis, quaestiones omnes disciplinam spectantes, quarum flagitetur solutio, si haec in sententiis iam probatis et in rebus alias iudicatis nulla habeatur: item petitiones gratiarum ac dispensationem non communium, quae a Congressu disceptatione digna videantur. Quapropter plenae Congregationi competent dispensationes ab irregularitate ad sacram Ordinationem in casibus dubiis vel difficilioribus, aut ubi impetrata gratia in dedecus cessura

sit ecclesiastici coetus; supplices libelli circa irritam sacram Ordinationem aut circa eiusdem obligationes, aut ab his exemptionem, ubi causa solo disciplinae tramite tractanda sit; quaestiones iuris de loco, tempore, conditionibus ad Sacrum faciendum, ad ipsum geminandum, ad recipiendam adservandamque Eucharistiam necessariis; item de loco, tempore, conditionibus ab ecclesiastica disciplina requisitis ad cetera Sacramenta legitime ministranda et recipienda; simulque petitae hac de re dispensationes extraordinariae.

12. Ad Congressum pertinet iudicium de rebus ed plenam Congregationem deferendis, eorumque omnium instructio quae habendo consilio afferant lucem, sive institutis de facto investigationibus, sive exquisitis unius alteriusve Consultoris, aut etiam omnium, sententiis.

Eidem Congressui iudicare licet, atque etiam concedere, pro facultatibus quas Pontifex Maximus Cardinali Praefecto et Praelato a secretis tribuendas censuerit, dispensationes ab impedimentis matrimonii, ad normas inferius exhibendas.

Pariter ad Congressum pertinet ab aetatis ac tituli defectu dispensationes clero saeculari concedere; ab eucharistico ieiunio dispensare; permittere ut Augustum Sacramentum adservetur in ecclesiis et oratoriis quae hoc iure carent, et

ut sanctum sacrificium celebretur in privatis sacellis, in iis casibus quibus huiusmodi gratiae impertiri solent, ad vigentis disciplinae normas et secundum communem legem superius memoratam.

13. Documento forma Brevis, redacto tamen in huius Congregationis Officio secreto, mittentur dispensationes ab impedimentis matrimonii cuiusvis gradus, modo honestae naturae, si dispensationes ipsae sint mairoribus obnoxiae taxationibus.

Ceterae dispensationes documento mittentur forma rescripti.

14. Indulta privati sacelli cuiusvis generis, sui, familiae, aliorumve commodi causa petita, mittentur per Breve in proprio Secretariae Status officio redigendum.

Ab hac tamen lege eximuntur sacerdotes vel senio vel morbo affecti, qui solvendo pares non sint. Ad hos gratia mittetur forma rescripti et ad normas huius legis *cap. XI, Norm. comm.*

15. Indulta perpetua SSmae Eucharistiae adservandae in aliquo templo vel sacello, privilegii huius expertibus, pariter per Breve mittenda sunt. Temporaria mittentur per rescriptum, iisdem quae superiore numero normis.

16. Ubi gratia per Breve mittenda sit, Praelatus a secretis aut Subsecretarius, ad quem nego-

tium pertinet, certiorem de re faciet Cancellarium Brevium cum eoque opportunas normas communicabit. Ille vero, cuius interest, hoc Officium adibit, suum documentum recepturus.

17. Si Summus Pontifex consuetas Congregationi facultates concedat, circa dispensationes ab impedimentis matrimonii serventur hae leges:

a) in impedimentis *minoris gradus,* de quibus inferius *num. 19,* ubi nihil obstet quominus dispensatio concedatur, gratiae concessio, loco maiorum Praepositorum, a Subsecretario *dispensationum,* aut ab eius adiutore signatur;

b) in impedimentis *maioris gradus,* de quibus proximo *num. 20,* si nihil pariter obstet, dispensatio a Cardinali Praefecto conceditur, aut a Praelato a secretis.

18. In dubiis, Subsecretarius de re conferet cum Praelato a secretis aut cum Cardinali Praefecto; hic ad Congressum plenamve Congregationem referet; ad ultimum, prout res ferat, relatio fiet Summo Pontifici.

19. Dispensationes *gradus minoris* sunt ab impedimentis:

a) consanguinitatis et affinitatis tertii et quarti gradus lineae collateralis, sive aequalis sive inaequalis, hoc est quarti gradus mixti cum tertio, et quarti vel tertii mixti cum secundo;

b) affinitatis in primo gradu, et in secundo

simplici vel mixto cum primo, ubi hoc impedimentum ex illicito commercio procedat;

c) cognationis spiritualis cuiusvis generis;

d) publicae honestatis, sive per sponsalia sive per matrimonium, super quod iam dispensatum sit, fueritque solutum.

20. Dispensationes *maioris gradus* concedi solitae, interveniente legitima causa, sunt ab impedimentis:

a) consanguinitatis secundi gradus lineae collateralis aequalis, et secundi vel tertii gradus primum attingentis;

b) affinitatis primi et secundi gradus lineae collateralis aequalis, et secundi vel tertii gradus primum attingentis;

c) criminis ex adulterio cum promissione futuri matrimonii.

21. Dispensationes a minoribus impedimentis concedentur omnes *ex rationalibus causis a S. Sede probatis.* Sic vero concessae perinde valebunt ac si *ex motu proprio et ex certa scientia* impertitae sint: ideoque nulli erunt impugnationi obnoxiae sive obreptionis vitio sive subreptionis.

22. Nisi Cardinalis Praefectus aut Praelatus a secretis aliquam sibi petitionem aut plures reservarint, supplices libelli omnes ad impetrandam dispensationem ab impedimentis, relati prius in tabulas, a protocollo ad Subsecretarium dis-

pensationum eiusque adiutorem transmittentur.

Hi, opere inter sese aequa ratione distributo, quae ad ipsos pertinent, secernent a ceteris. Supplicibus libellis sibi reservatis consulent, signando gratiae concessionem initialibus sui nominis et cognominis litteris. Iidem constituent, debeatne dispensatio esse gratuita, an et quanti taxanda. Si vero gratia mittenda sit forma Brevis, id adnotare ne omittant. Post haec supplices libellos, quibus fuerit provisum, scriptoribus expediendos committent.

De ceteris petitionibus, quamprimum ad Cardinalem referent aut ad Praelatum a secretis ut opportune ipsi provideant.

13. Cardinalis et Praelatus a secretis, legitime impediti, possunt negotium Subsecretario committere largiendi dispensationes sibi reservatas, intra limites et cautelas quas duxerint necessarias.

24. In dispensationibus minoris gradus et in negotiis minoris momenti poterit documento subscribere Subsecretarius ad quem pertinet res, aut, hoc impedito, alteruter e duobus reliquis Subsecretariis, contra posita subscriptione amanuensis qui documentum exaravit tamquam *officialis*.

In maioris gradus dispensationibus et in ne-

gotiis maioris momenti documento subscribet Cardinalis Praefectus, aut alius eiusdem Congregationis Cardinalis, contra posita subscriptione Praelati a secretis, aut, hoc impedito, alicuius e Subsecretariis, ut in superiore numero.

Art. IV.—*Congregatio Consilii*

1. Administri maiores, post Cardinalem Praefectum, sunt Praelatus a secretis et Subsecretarius.

2. Erit collegium Consultorum a Summo Pontifice renuntiandorum, quorum aliqui probati sint temporalium etiam gerendarum rerum peritia.

3. Aliquot etiam minores administri erunt, iuxta normas superius datas.

4. Potestas huius Congregationis propria statuta est in Constitutione *Sapienti consilio.*

Ad omnem tamen tollendam ambiguitatem, quae forte in aliquibus casibus oriri posset, nonnullae heic peculiares singillatim recensentur facultates, quae uni Concilii Congregationi reservantur. Eius itaque dumtaxat erit in posterum concedere:

a) collegiis canonicorum, seu Capitulis dispensationes ab obligatione celebrandi Missam feriae ac vigiliae; Missae canendae et ap-

plicandae conventualis; canendi atque in choro recitandi horas canonicas;

b) tum Capitulis, tum singulis e clero saeculari, anticipationem recitationis officii matutini;

c) Capitulis, anticipationem Vesperarum et Completorii ante meridiem;

d) sacerdotibus e clero saeculari commutationem recitationis officii divini cum aliis precibus;

e) dispensationem a ieiunio praescripto ante consecrationem sacrarum aedium;

f) facultatem in interno templi vel publici sacelli pariete fenestram faciendi extruendique parvi chori, aut aperiendi ostii, quo privatus aditus patefiat;

g) dispensationem a laurea doctoris sive ex tabulis institutionis sive ex lege praescripta ad beneficium vel officium aliquod assequendum, quorum largitio ad Ordinarium pertineat.

5. Item ad Consilii Congregationem spectat iudicium de controversiis omnibus circa potiorem dignatatis locum, seu *praecedentiam,* exceptis iis quae Sodales religiosos attinent (quae controversiae Congregationi religiosorum Sodalium sunt reservatae), iisque pariter demptis quae *Cappellam,* Aulam pontificiam et Patres Cardinales spectant, ad Caeremonialem deferendae.

Item ad eam pertinet videre, administrationis et disciplinae tramite, de servitutibus, quas aedi sacrae se constituisse aliquis iactet, aut quas eidem velit imponere, qualia sunt habitatio in superiori contignatione, murorum impositio, atque horum similia.

6. Ad plenae Congregationis iudicium pertinent:

a) examen dubiorum circa iuris interpretationem in huius Officii rebus, quae dubia nullam facilem solutionem atque perspicuam nanciscantur in constitutis legibus aut in alias decisis; examen petitarum gratiarum, dispensationum, indultorum, quae concedi fere non soleant eo modo, aut ea latitudine; aliaque, quemadmodum superius dictum est;

b) cognitio Conciliorum provincialium.— Qua in re, ad vigentis disciplinae normam, unius Consultoris primum exquiretur sententia; deinde horum Collegii, aut partis eiusdem, non infra numerum Consultorum quinque, per vices eligendorum. Tum vero adiutor regionis, ad quam pertinet provinciale Concilium, acta et suffragia typis imprimenda curabit.

Pariter quidquid maioris ponderis in Episcoporum coetibus contigerit statutumve sit, ad plenam Congregationem referatur.

7. Congressus autem est, ad normam legis

communis, necessaria parare ad negotiorum examen, quae plenae Congregationi sint reservata, ordinarias res expedire, solitas gratias concedere usitatis formis et pro facultatibus a Summo Pontifice acceptis.

8. In administrandae pecuniae negotiis, suae ac peculiares erunt servandae normae.

9. In rebus sanctae Domus Lauretanae, normae pariter serventur superius constitutae.

Art. V.—*Congregatio de sodalibus Religiosis*

1. Huius Congregationis administri maiores sunt pariter, post Cardinalem Praefectum, Praelatus a secretis et Subsecretarius.

2. Erit collegium Consultorum a Summo Pontifice eligendorum.

3. Erunt etiam aliquot officiales minores, quot necessarii sunt iuxta regulas superius datas.

4. Alterius ex adiutoribus proprium officium esto curare quae ad religiosos Ordines pertinent; alterius quae ad congregationes et omne genus instituta virorum; tertii quae ad congregationes et instituta mulierum.

Pro unoquoque horum munerum sui erunt scriptores distributi.

5. In decernendo quaenam in plena Congregatione tractanda sint, quaenam maioribus ad-

ministris aut Congressui reservanda, prae oculis habeantur superius *cap. II* constitutae normae, et quae in memoratis hactenus Congregationibus indicatae sunt.

6. Decretum quo laudatur probaturque institutum aliquod, et decretum approbationis constitutionum, itemque substantialis mutatio quaevis in iam probatis institutis inducenda, ad plenam Congregationem semper pertinebunt.

Art. VI.—*Congregatio de Propaganda Fide*

1. Congregatio haec retinet constitutionem, disciplinam agendique rationem sibi propriam, in iis omnibus quae cum dispositionibus Const. *Sapienti consilio* et praesentis legis componi possunt.

2. Iuxta vero ea quae pro aliis Congregationibus statuta sunt, in officio a secretis alius administer adiicietur, nempe Subsecretarius.

3. Indulta, quae hactenus haec sacra Congregatio concedere solebat iis etiam qui suae iurisdictioni non essent obnoxii, in posterum suis subditis tantum tribuet.

4. Congregatio de Propaganda Fide pro Negotiis ritus orientalis sua munia ex integro servabit. In iis tamen, quae internam Officii disciplinam et modum tractandi negotia spectant, huius

legis normis sive communibus sive peculiaribus inhaerebit.

5. Circa huius Congregationis et Camerae Spoliorum administrationem, peculiaris norma quamprimum dabitur, quae, a speciali Cardinalium coetu revisa, per Emum Praefectum Summi Pontificis approbationi subiicietur.

Art. VII. — *Congregatio Indicis*

1. In ratione gerendarum rerum et in disciplina ac muniis administrorum haec Congregatio suas retinebit normas, se tamen conformando statutis Const. *Sapienti consilio* et praesentis legis.

2. Administri, Consultores, Cardinales huius Congregationis iusiurandum dabunt de secreto Sancti Officii servando, ut ipsis cognita sint quae ab eo sacro Consilio de prohibitione librorum agantur, ad normas memoratae Constitutionis.

Art. VIII. — *Congregatio SS. Rituum*

1. Suam, quam hactenus, constitutionem retinet atque naturam, salvis praescriptionibus Const. *Sapienti consilio* atque huius legis, in iis quae ad Congregationem hanc referuntur.

2. Itaque quum huius proprium et cum aliis

non commune sit munus curandi ut, in universa Ecclesia latina, sacri ritus ac caeremoniae diligenter serventur in Sacro celebrando, in Sacramentis administrandis, in divinis officiis persolvendis; idcirco debet:

a) advigilare liturgicis omne genus libris Ecclesiae latinae, eos inspicere, corrigere aut reprobare, salva Sancti Officii competentia in iis quae fidei capita, seu dogmata, respiciunt;

b) excutere atque approbare nova officia divina et calendaria;

c) dubia de ritibus iudicare ac dirimere;

d) quae hac in re necessaria videantur temperamenta, indulta, facultates concedere, veteri retento catalogo, novis tamen disciplinae normis circumscripto, iis praesertim quae superius allata sunt *num. 10.*, de Congregatione Sacramentorum, et *num. 4* et *5.*, de Congregatione Concilii.

3. Negotiis ad plenam Congregationem deferendis aut in Congressu tractandis erunt aptandae regulae haud semel indicatae in superius memoratis Congregationibus, et superiore *cap. II.*

4. In causis *Beatificationis* et *Canonizationis* standum normis eius rei propriis ac peculiaribus, servatis tamen semper huius legis praescriptionibus ad hoc genus materiae pertinentibus.

5. Circa sacras Reliquias, Congregatio Rituum in haerebit praescriptis Const. *In ipsis,* die

VI mensis Iulii a. MDCLXIX, superius memoratae sub *art. I.*, de Sancto Officio.

Art. IX. — *Congregatio Caeremonialis*

Congregatio haec, suapte natura, constitutionem suam ac disciplinae rationem stabilem retinet nullique mutationi obnoxiam.

Art. X. — *Congregatio pro Negotiis eccl. extraordinariis*

Huius pariter Congregationis natura et constitutio, non minus quam ratio disciplinae, immutata manet, salvis praescriptionibus eam spectantibus, in Const. *Sapienti consilio* et in hac adiecta lege comprehensis.

Art. XI. — *Congregatio studiorum*

1. Quaenam sit huius Congregationis auctoritas statuitur in Const. *Sapienti consilio*. In iis vero quae ad internam disciplinam et negotiorum expediendorum rationem pertinent, regulas in hac lege statutas sive communes sive peculiares servabit.

2. Plenae Congregationi huius Officii competunt condendae novae studiorum Universitates

ac Facultates omnes, quibus ius est academicos gradus conferendi; mutationes maioris momenti in iisdem iam institutis; cognitio questionum graviorum in ipsis occurrentium de patrimonii administratione, de magistri alicuius decurialis nominatione, da ratione studiorum, et de aliis huiusmodi; item quae necessario capienda consilia in commune videantur; postremo iudicium de excellenti aliquo viro academicis gradibus *ad honorem* decorando.

3. Congressus officium est ad plenam Congregationem deferenda parare; leviores controversias in aliqua studiorum Universitate vel Facultate subortas dirimere, ad norman praescriptorum superius.

4. Si qua velit in posterum studiorum Universitas aut Facultas nova constitui, opus est id fieri per Breve. Nulla pariter in praesentem Facultatem et Universitatum statum gravior immutatio induci poterit nisi per Breve.

Cap. VIII.—De singulis tribunalibus

Art. I. — *Sacra Poenitentiaria*

1. Tribunalis huius ambitu ad solum forum internum coarctato, suis muniis addicti, manebunt, praeter Cardinalem Poenitentiarum, Regens,

Praelati quinque Signaturae, Procurator, seu a secretis, Substitutus et aliquot inferiores officiales.

2. In officii parte quam retinet, hoc sacrum Tribunal se geret ad normas praesertim Const. *In Apostolicae,* editae die XIII mensis Aprilis a. MDCCXLIV a Benedicto XIV, salvis immutationibus legitimo usu posterius inductis, quae erunt scripto redigendae et a Cardinali Poenitentiario subiiciendae approbationi Pontificis; firmisque praescriptis a Const. *Sapienti consilio* et ab hac lege, in omnibus quae hoc sacrum Tribunal spectent.

3. Iuxta memoratae Constitutionis Benedicti XIV praescripta, *omnia secreto et gratis* in hoc sacro Tribunali expedientur.

Art. II. — *Sacra Romana Rota et Signatura Apostolica*

1. Utriusque Tribunalis quae debeat esse procedendi ratio, qui et quales administri, a *Lege propria* potissimum decernitur adiuncta Constitutioni *Sapienti consilio.*

2. Nihilominus in his etiam Officiis servanda sunt praesentis Ordinationis praescripta in iis omnibus, quae ad expedienda negotia, ad iusiurandum, ad administrorum munia horumque sim-

ilia referuntur, quantum scilicet huius Ordinationis normae cum *Lege propria* consentiant.

Cap. IX. — De singulis officiis

Art. I. — *Cancellaria Apostolica*

Purpuratorum Patrum coetus, constans Cardinalibus tribus, Cancellario, Datario et a secretis Consistorialis, reformandas quam primum curabit formulas *Bullarum collationis* beneficiorum, sive consistorialium, sive aliorum; itemque *Bullarum* constitutionis dioecesum, Capitulorum; denique Regularum, quas *Cancellariae* vocant.

Art. II. — *Dataria Apostolica*

1. Ob inductam a Const. *Sapienti consilio* novam ordinationem, Datariae Apostolicae hoc relinquitur munus, quod in beneficiorum non consistorialium collatione versatur. Atque in hoc etiam Officio sunt retinendae normae huius legis in iis quae ipsum attingant.

2. In collatione beneficiorum ea ratio servabitur, quam praesens lex et vigens usus praestituunt, cauto tamen ut hic cum novis praescriptionibus memoratae Constitutionis cohaereat, donec, reformatis Cancellariae Regulis, aliter provideatur.

3. Bullae collationis prima perscriptio (*minuta*) fieri debebit ab uno adiutore, et loco erit veteris, uti vocant, *supplicationis;* eaque in actis servabitur ad cautionem et recognitionem, si qua forte inciderit impugnatio.

Nihil immutatur in invecto usu providendi nonnumquam beneficiis per decretum *simplicis signaturae,* hoc est nullis Bullis expeditis.

4. Subscribetur Bullis a Cardinali Datario, eoque impedito, a Cardinali a publicis negotiis seu *a secretis Status,* contra posita subscriptione illius officialis, qui primus ordine temporis post Datarium sit et in officio adsit.

5. Curabit praeterea Dataria ut imponantur et exigantur pensiones et onera beneficiis Urbis adnexa, ad arcam pensionum, quam vocant, pertinentia. Quare officialis distributor exiget solvendam ab iis pecuniam, qui oneribus aut pensionibus graventur; ac deinde ius habentibus ad pensiones aliave emolumenta debitis modis satisfaciet.

Trimestri quoque spatio Cardinalis Datarius, aut eius vice alius, arcae statum explorabit, supputatisque rationibus, suae auctoritatis testimonium adscribet.

Art. III. — *Camera Apostolica, Secretaria Status, Secretariae Brevium ad Principes et Epistolarum latinarum*

1. Haec Officia receptum huc usque suis muniis fungendi morem ut ante retinebunt, salvis praescriptionibus Const. *Sapienti consilio* et huius Ordinationis, in iis omnibus quae eadem attingant.

2. Peculiaris coetus trium Cardinalium, quos inter Cardinalis *a secretis Status,* Brevium Apostolicorum formas instaurandas curabit, quae ab ea *Secretariae Status* parte mitti solent, cui est Apostolicorum Brevium cura commissa.

APPENDIX

INSTITUTIO CIRCA MODUM IN TABULAS REFERENDI ET SCRIPTA EXPEDIENDI

1. In omni Officio liber erit annui protocolli, in quod, ordine temporis, preces et expostulationes referentur singulae, quae per annum exhibeantur.

Haec in album adscriptio, post numerum ordinis, indicabit: 1. dioecesim, ad quam preces aut expostulationes pertinent; 2. petentem aut expostulantem; 3. cur, aut contra quem expostulatio fiat; 4. exhibitionis diem; 5. procuratorem, seu agentem, si fuerit interpositus. Su-

binde vacuum chartae relinquetur spatium, in quo notetur, qui fuerit negotii processus, hoc est, scriptumne sit ad Ordinarium, impetratane gratia, an transmissa, negata, dilata, et ita porro.

Numerus protocolli debet in supplicem libellum referri, scriptum ad modum fractae partis, cuius *numerator* exprimat ipsius numerum protocolli; *denominator* vero annum, elisis litteris. Ita si negotium, pertinens ad annum MDCCCCVIII, in protocolli libro numerum ferat 500, inscribendum positioni erit fracta sic parte: $\frac{500}{08}$. Tergo praeterea supplicis libelli apponentur adnotationes earum fere similes, quae in libro protocolli, hoc est, nomina dioecesis, recurrentis, ac cetera.

2. Habebitur etiam protocolli index, hoc est annua parva rubrica, in quam negotia ordine dioecesum digesta referantur, indicto, post nomen dioecesis, nomine postulantis cum numero protocolli, quo facilius investigationes in positionibus institui possint.

3. Numerus protocolli, semel positioni adsignatus, manet, etsi negotium ultra annum trahatur. Quod si, aut instaurata post aliquot annos quaestione, aut alia quavis de causa contingat, ut alius ei sufficiatur numerus, huius mentio fiet in priore numero, tam in libro protocolli quam in parva rubrica.

4. Relatis in protocollum chartis, resumptis-

que, si quae sint, prioribus, positiones ad maiores administros aut adiutores transmittendae sunt, eorum cognitioni subiiciendae et ad rem, secundum suas cuiusque Officii normas, ad exitum deducendam.

5. Re deliberata et provisa, positiones deferendae sunt:

a) ad scriptores, quoties eadem de re aut epistola conficienda sit, aut aliquis vocandus, aut exarandum rescriptum;

b) ad distributorem, si positio Consultori vel alii viro studii causâ committenda sit;

c) ad protocollum, si aut iussum fuerit resumi priores, aut si coeptum consilium peculiarem exsecutionem non postulet, quemadmodum si rescriptum sit: *ad acta, reponatur, lectum,* aut horum aliquid simile.

6. Nisi quid aliter in suis cuiusque Officii normis praescriptum sit, aut nisi Moderatores opportunum duxerint alia ratione consulere, communiter ad eum qui prior est inter addictos protocollo, haec munium partitio spectabit. Ipsius igitur erit suas cuique scriptori positiones adsignare, prout singulis competunt sive ratione territorii, sive materiae. Idem in protocolli libro rescripta, de quibus *litt. b* et *c num. 5.*, superioris, notabit. Priora vero illa, de quibus *litt. a,* in album referet absoluto negotio.

7. Scriptores, expleto suo munere, positiones cum adiectis rescriptis ad ratiocinatorem transmittent.

Hic acta tradet ad subsignandum. Actorum vero fasciculos, seu *positiones,* apud se retinebit, ut in suo administrationis folio et deinde super rescriptis, cum subsignata redierint, taxationes adnotet, si quae sint adiectae. Deinde positiones ad protocollum remittet, cum sigla ex convento constituta ad significandum omnia esse confecta; litteras vero et rescripta distributori tradet.

8. Protocollo addictus rem in librum referet et positiones in suo quamque loco reponet. Distributor autem acta secundum proprias leges distribuenda curabit.

9. Si non subscripta redierint acta, vel si cum aliqua animadversione coniuncta, administri, pro variis casibus, Praepositorum sese mandatis conformabunt.

10. Memoratae normae sunt omnibus retinendae diligenter, nisi quid in iis quae sequuntur peculiaribus legibus exceptum sit pro aliquo Officio.

Quae superioribus capitibus continentur, SSmi D. N. Pii PP. X iussu accedunt Constitutioni Sapienti consilio *editae die* XXIX *mensis Iunii a.* MDCCCCVIII *et Ordinationi communi tunc tempor-*

is vulgatae. Eadem proinde vi pollent, anteriores abrogant contrarias leges, et servari ab omnibus integre debent, quavis alia ordinatione, usu, privilegio contrariis non obstantibus.

Datum Romae, die XXIX mensis Septembris an. MDCCCCVIII.

De speciali mandato SSmi D. N. Pii Papae X

R. Card. MERRY DEL VAL.

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